

METROPOLITAN AREA PLANNING COMMISSION

MINUTES

July 14, 2005

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, July 14, 2005, at 1:31 P.M., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita Kansas. The following members were present: Morris K. Dunlap, Chair (In @ 1:52); Harold Warner Jr., Vice-Chair; James Barfield (in @ 1:33); Darrell Downing; Bill Johnson; Bob Aldrich; Elizabeth Bishop; M.S. Mitchell; Frank Garofalo; Denise Sherman; Bud Hentzen; Ronald Marnell and Hoyt Hillman. Gary K. Gibbs and John W. McKay Jr. were not present. Staff members present were: John L. Schlegel, Secretary; Dale Miller, Current Plans Manager; Donna Goltry, Principal Planner; Neil Strahl, Senior Planner; Bill Longnecker, Senior Planner; Jess McNeely, Associate Planner; David Barber, Advanced Plans Manager; and Rose Simmering, Recording Secretary.

1. Approval of June 9, 2005 meeting minutes.

MOTION: Approval of June 9, 2005 meeting minutes.

MITCHELL moved, **DOWNING** seconded the motion and it carried (10-0).

2. City of Wichita 2005-2014 Capital Improvement Program presentation by Jay Newton, Senior Budget Analyst.

JAY NEWTON, City of Wichita, Finance Department, presented report.



CIP overview for
MAPC 7-14-05....

BISHOP Mr. Newton do you have any kind of calendar process, or overview for how the CIP is formulated?

NEWTON We started working on this CIP last fall, so we have been working for a while with budgets and other issues that have come up. We don't have a standardized calendar at this point. But we did solicit input from the DAB, and we also put a survey on the website, and passed that on to the DAB through the City Manager's office.

BISHOP Was the presentation given to the DAB's similar to this?

NEWTON Yes.

BISHOP What's missing from this presentation is what projects fall where within that 10 years? We are not planning on doing anything with parks until 2012. Without knowing what projects are falling on what dates, it's really kind of difficult.

NEWTON The projects are consistent with what was approved in the last CIP 2006 last time. We tried as nearly as we can, to keep those projects in 2006. The only projects of any large amount that have been inserted into the CIP in the early years of the program are the economic and redevelopment projects, which are primarily the implementation of the neighborhood plans. The road and bridge projects we worked with the Transportation Planning Department, and those are consistent with what has been approved in terms of federal funding, and the city match that goes with that federal funding.

SCHLEGEL If they want details about the CIP, the assignments of funds, by year, by project, can they find that online?

NEWTON We posted on them on Internet on the City's website. I can provide hard copies.

BARFIELD I noticed you had the Boys & Girls Club in the CIP, and I wanted to know why? It was my understanding it was a private undertaking, and the funds would be raised privately for that.

NEWTON The discussions between City Council and City Manager and also the sponsors of that project, we are proposing the City under take some of the utility line relocations, drainage structures, driveways, and the street involved. The City would not be involved in any buildings, and we would prepare the drives, parking lots, and sidewalks for access to the buildings but not facility construction.

BARFIELD I also note here that you have new and or remodeled police substations. There are four in place at this time correct?

NEWTON That is correct.

BARFIELD Are there any plans for additional substations?

NEWTON Not at this time.

BARFIELD None of those substations, in my estimation would be old enough to require remodeling so why is that being done?

NEWTON All of those substations are relatively new, 3 or the 4 have been built within the last 20 years or so. Beginning in 1993-1994 we implemented the public safety initiative, which added about 130 officers to the police force. Since then the traffic enforcement section which used to be run out of City Hall has been decentralized to the substations so we have had some changes

in terms of the number of personal, and the amount of operations, and the amount of equipment that operates out of those substations since then.

MITCHELL Has the presentation for the proposed CIP as you have it today been made to the Advanced Plans Committee of the Metropolitan Area Planning Commission?

NEWTON No, it hasn't.

MITCHELL Are you under some kind of deadline to get our approval of this being in compliance with the Comprehensive Plan today or could that be scheduled, and then we take that action later?

NEWTON We would prefer the finding to happen today. There is not a specific deadline but we would like to go to the City Council for adoption so that we can begin to start some projects.

SCHLEGEL Jay, do you have tentative date for when this will go to the City Council?

NEWTON We are tentatively scheduled for the City Council sometime within the next several weeks depending on what issues come up or need to be addressed.

MITCHELL With \$80 million of new projects, granted some of those have been included in neighborhood plans by suggestions and wishes, that seems to be a big leap to ask us to approve the Comprehensive Plan or a CIP today without having then the opportunity of knowing a little more about where those projects fit into the neighborhood plans, and the total debt for the City for the next 15 years.

NEWTON What we have done on the neighborhood plans that have been included, we have incorporated all of the projects that were proposed as part of the implementations of those neighborhood plans. We worked with the advanced planning group to include every element of those plans.

MITCHELL With the Advance Plans Committee?

NEWTON With the MAPD staff.

HILLMAN I noticed in the economic redevelopment that most of the monies are set aside for 2011 and 2013, would that information on how that will affect the Historic Downtown Area or Hilltop be available online? Or would that be presented to the Advanced Plans Committee?

NEWTON That's included in the project listing. That is available online. Most of those plans are smaller neighborhood plans, not including the 21st Street Revitalization Plan. Most of those do begin in about 5 years or so from now. If you look at that category, economic and redevelopment, and look at where the dollars are placed, a lot of those are about 5-7 years from now because the largest project that is included is the overpass, and the construction of that overpass is the single largest big dollar project.

ALDRICH I have a question on the revenues in relationship to the expenditures. What were the projected expenditures on last years approved CIP compared to this year's CIP? What are the revenue projections from last year's compared to this year?

NEWTON The revenues and expenditures are balanced in both CIP's. Last year's was about \$100 million less than what this year's is, and a couple reasons for those changes are: one was that we revised the assumption on what is going to be done in terms of new development. We had always shown about \$12 million per year in special assessment in terms of new development. The number has been significantly above that for the last several years. We are looking at an amount that is close to \$23-24 million this year, and those are completely offset by revenues from within those special assessment areas. We also had better than expected sales tax returns, and that was due to a state law that changed what sales tax is collected for services, and that has grown more than we thought it would. Property taxes we had estimated about 3% growth, actual growth from last year to this years was 5%, so that not only effects this year it increases the base upon which future projections are based.

ALDRICH How much are you counting on the State for revenue? I think that is subject to change in the near future.

NEWTON What we have coming from the State right now is just from Rock Road on the freeway project, and then we have the pass through that KDOT does for federal funds for the road projects. We have not assumed any additional funding for Kellogg either west of Maize or east of Rock. What is programmed in the CIP for the freeway categories are designed and right-of-way acquisition, so we will have to deal with construction at a later time. We are hopeful that in about 2009-2010, which if the State does another 10-year transportation plan that, is about when that would happen. We are hopeful that there will be a transportation plan, and that we would be able to secure funding from that, but we don't know and so that is not programmed right now.

ALDRICH We don't have to worry about any tax increases, or property tax increases in any way, shape, or form?

NEWTON No, the worse case scenario on the freeway projects are that we would get the design done and that we would start working for example on Webb Road, but we would not be able to continue construction east of there. In terms of property taxes, we are assuming \$10 mills, which is consistent with what we have done since 1993, we are not assuming a property tax rate increase either for the CIP or for the operating budget. The sales tax was passed by referendum, and we are still planning to dedicate 1/2 of the City's part of that sales tax to the freeway projects, but again no change in the tax rate, and no additional tax.

BARFIELD I noticed on public facilities, the spending in 2006 is totally unproportional with all the other years, why is that?

NEWTON In 2006, we have the animal shelter which is the largest project included. We have about \$3 million in city funds planned. We have some projects that are additionally sort of unique to that year. The police substation renovation project is included in that year, and we also have a fire station included in that year, and the total of all three of those projects is about \$8 million so that is why the fluctuation.

BARFIELD What police substation are they talking about remodeling?

NEWTON The north substation, at 21st and Hillside, and the south substation at Pawnee and Broadway. Those are the newest, and they probably are in good locations for police response. The east and west substations we would look at relocating.

MOTION: That the proposed CIP 2005-2014 is consistent with the Comprehensive Plan.

BISHOP moved, **HILLMAN** seconded the motion.

MITCHELL Again with \$81 million of new projects without an opportunity for the Advanced Plan Committee or the full Planning Commission to have a chance to review those previous to this meeting, I cannot support the motion.

MOTION fails 2-9-1. (**ALDRICH, HETZEN, BARFIELD, MARNELL, HILLMAN, DOWNING, SHERMAN, JOHNSON, MITCHELL**, opposed) (**DUNLAP** abstains because he did not arrive to meeting and hear entire presentation.

WARNER It looks to me like you need to go to the Advanced Plans Committee, and come back and make this presentation again.

SCHLEGEL May I suggest that we schedule them at the next Advanced Plans Committee, and I am not sure what date, but we will get it scheduled. I don't know that he needs to make the same presentation. I think it is a matter of coming with more detail, and then allowing that Committee to go over that detail, and ask any additional questions and then bring it back at the next available MAPC meeting.

MARNELL I would ask that we be provided prior to that meeting with the year-to-year detail. I did not find this document useful at all. It did not tell me a single thing, because other than the airport, because there are only two airports and we know that they are going to spend that money in those airports in some years but when you go to any of these other pages this kind of presentation does not give me enough information.

BISHOP I would like to suggest that when we do have Agenda Items that are going to call for an action, I think it would help the process to go more smoothly that there is an action line provided on the document. I came assuming this was going to be a presentation today and not an action was necessary today.

SCHLEGEL I wasn't sure what you would want to do with this today, whether you would want to just receive the information as presented or if you wanted to do more review.

3. DR04-16 Central Northeast Area Plan Update and Setting a Public Hearing Date for August 11, 2005, presentation by David Barber.

Background: In November 1995, following extensive community involvement and technical analysis, the City completed the Northeast Area Plan, entitled *Rediscovering Community: Exploration of a Place and its Promise*. This plan addressed numerous community redevelopment and revitalization issues for several low-moderate income neighborhoods located in central northeast Wichita. The Plan contained over 90 recommended strategies to achieve positive long-term change.

In late 2004, citizens in central northeast Wichita approached the City with an interest in revisiting the redevelopment and revitalization strategies identified in the *1995 Northeast Area Plan*. Their desire is to update the plan as needed in order to achieve long-term area redevelopment and revitalization successes in central northeast Wichita.

In early January 2005, the City began working with a 22 member Steering Committee comprised of key area stakeholders and neighborhood representatives to evaluate the relevance of the goals outlined in the 1995 plan, and to identify priorities and action items for future implementation. The Plan area is bounded irregularly by Mosley on the west; Kellogg, Hillside and Central on the south; Edgemoor, Pinecrest, Parkwood, Old Manor, and Oliver on the east; and 21st, Hillside and the UPRR on the north.

Eleven Steering Committee meetings and two Public Meeting have been held at the Atwater Community Center since the beginning of this year, to review and update the Plan. The Central Northeast Area Plan Committee feels that they have developed an updated draft plan that has broad-based neighborhood support, support from the active neighborhood associations, and support from City officials.

The draft Plan Update has been reviewed and endorsed by the Advanced Plans Committee, and was endorsed by DAB I on July 11th. The Plan is now ready for review by the whole of the MAPC prior to the setting of a public hearing date.

Summary of the Central Northeast Area Plan Update:

- ☐ An expanded **vision statement** that describes in detail the desired future community conditions that will eventually exist within the Central Northeast neighborhoods.
- ☐ A strategic approach that establishes the following **11 area plan priorities**:
 1. Increase neighborhood capacity.
 2. Housing repair.
 3. Neighborhood clean-up.
 4. Neighborhood Watch and community safety.
 5. Enhanced neighborhood-shopping opportunities.
 6. Retain and attract new businesses and jobs.
 7. Improve the quality of life for all neighborhood children.

8. New home construction on vacant lots.
9. Initiate a neighborhood and personal pride campaign.
10. Improve neighborhood infrastructure.
11. Improve area recreation opportunities.

☐ **Forty-three detailed implementation actions** to help achieve the 11 area plan priorities.
A vision statement

While the act of adopting the Central Northeast Area Plan Update itself involves no commitment of funding from the City of Wichita or Sedgwick County, the plan proposes some physical infrastructure improvements throughout the area (e.g. lighting, sidewalks and park improvements) over the next 10-15 years that could total 3-4 million dollars in capital improvements. These improvements would be eligible for funding from federal CDGB funds, as well as City GO funds.

Recommended Action: That the MAPC indicate support for the draft Central Northeast Area Plan Update dated June 28, 2005 and schedule a public hearing on August 11, 2005 pursuant to State Statute to receive formal public comment and consider adoption of the Plan as an amendment to the Wichita-Sedgwick County Comprehensive Plan.

Attachments:

Draft of the Central Northeast Area Plan Update dated June 28, 2005.

SCOTT WADLE Planning staff presented report.

BARFIELD On page 18, on the priorities, number 10, in my estimation certainly should be moved closer to the top or the priorities, like one or two.

DUNLAP That was going to be my question too, how did you arrive at the priority of these 11 initiatives?

WADLE They are not arranged in rank of importance. They are merely arranged according to subject.

MITCHELL At what point would we have numbers to put to some of these improvements, which will obviously will have to be publicly funded, or are they in the CIP that we just reviewed?

WADLE There have been some updates, as far as sidewalks are concerned. I received an estimate a couple of days ago, to install new sidewalks in the area, depending on their width from 4-6 feet, could range anywhere from \$6-10 million. I think if you look in the back, towards the appendix, there is a map which shows where sidewalks need to be installed. I also received an estimate for new streets, and the totaled is \$3 million. Most of which is located primarily in the northwest section, near the industrial portion of the area. For other projects, we really can not get an estimate until the neighborhood associations have come together and identified what the real needs are.

MITCHELL These would come back to us in some form with numbers?

WADLE I can give you the numbers for the sidewalks and streets, but for other projects it will depend.

MITCHELL Such as drainage?

WADLE The drainage projects would need to be consulted with neighborhood associations.

BISHOP About the sidewalks...generally if the sidewalk in front of your property needs repairing, the individual property owner is responsible for it. I understand that the city has had, for a longtime, a fund through Community Development Block Grant (CBDG) that does pay for sidewalks in some areas.

WADLE We do have a program that is funded through the CBDG program to repair sidewalks. Unfortunately it does not install sidewalks. We have a fund to install sidewalks along arterials, but it doesn't cover neighborhood residential streets.

SCHLEGEL I think a lot of these projects are not in the CIP now, and they would have to get programmed into future CIP's as the result of an initiative by a neighborhood.

MITCHELL At some point this information would go to Advance Plans Committee?

SCHLEGEL For the neighborhood projects?

MITCHELL Yes.

SCHLEGEL If you would like it to, we can do that.

DUNLAP It would have to if it is going to be included in the CIP, wouldn't it?

SCHLEGEL I am not following what you are saying.

DUNLAP He was asking you, if it was going to be included in the future CIP. The CIP is going before the Advance Plans Committee, so no dollars would be spent without being approved by the Committee.

SCHLEGEL I know you want to see the CIP that is being currently drafted and up for review by the City Council, I didn't know you wanted to review each and every neighborhood project that came out. If you would like to do that we could arrange to do that.

DUNLAP I personally don't want to.

MITCHELL When we reviewed the Midtown Plan they had estimates of the cost of certain provisions of that plan. Some of the projects were in the CIP already, and others were to be requested in the CIP. We had some idea what that plan might cost in the way of public expenditure. I would expect that we should have the same thing for this neighborhood plan.

WADLE What I'd like to do is address that comment. Because this is a large area plan that actually incorporates 12 neighborhood associations, it doesn't get as specific as the McAdams or the Midtown Neighborhood Plan. So, we are not able to provide very specific cost estimates. This plan provides a toolbox for those neighborhood associations to discuss the improvements that they need and then go about accomplishing those.

HILLMAN Routinely, when you get down to the neighborhoods, and you have a lot of dirt streets in some of these areas, you get a chance for the neighborhood to petition for improvements. You have to find over 50% of the neighborhood willing to support the paving of the street. What portion (In the Central Northeast Area) would be assessed to the neighborhood?

WADLE We have our existing program where I believe that the cost of the improvement is assessed to the adjoining property owners. We realize that this is a pretty impoverished area and you are not going to have the ability for residents to say, sure I will pick up that tab and put in that street. So we give pointers, instructions, and tips on how to go about starting and initiating a conversation with the City; to see if there can be a program created to help out with some of those cost.

HILLMAN Your saying none of this came from grant money?

WADLE I am saying there could be a program established to do a split, and anywhere in between. I don't have specifics on how that program would be worked out, because I don't work in Public Works and I don't know what they necessarily need to operate.

SCHLEGEL The purpose of this plan was not to identify specific projects and then to identify and have the cost for that and the specific funding source for each and every one of those projects. It was to encourage all these neighborhood associations to move forward with initiating projects with the City that would lead to improvements in their neighborhoods. It was a real broad area that is covered by this plan, with a lot of very distinct neighborhoods and very distinct problems from neighborhood to neighborhood. So in some of those neighborhoods, if drainage is the biggest issues or unpaved streets, or the need for sidewalks; our expectation is that the neighborhood association will work with our Public Works Department in getting that project moved along. In some cases they may be 100% assessed against the property owners and in other cases those neighborhoods maybe eligible for CBDG funds or other programs that the city has available. It will have to be looked at project to project basis.

MARNELL When this first came to Advance Plans, as I recall, this is not a specific neighborhood plan. This was to be an overall guideline, yet it shows up here with cost item lines in it not yet determined as far as what the cost are on all of these areas. It seems to me like there shouldn't be any of that in here. If there was funding for this, it is for keeping this as an overview organization. The funding should drop down in the neighborhood revitalization plans like the McAdams Plan, where you get specific plans that have identifiable projects and goals. By the size of this area there would be several of those in here.

WADLE The reason why we put in that we can't come up with a cost right now, is just so you know that we did not have a cost figure that we weren't including. So that when we say "look we don't have a cost for that," that is specifically identified in this Plan.

MARNELL We just saw the CIP program go through here and all of the sudden there is this big bulge out there that is all of the neighborhood redevelopment from these plans that have been going through. They always include that out somewhere in the future maybe they will find money, and all of the sudden this is real money being spent. It is being spent at this level early, with no details. This is like approve it and we will fill in the figures later.

WADLE I think you had it right the first time when you said that the small area plans really have to be done in order to get accurate cost for these. That is what I am trying to tell you, this doesn't have the cost in there because you need more specific detail from the neighborhood association about what improvements they need, where they needed those improvements, and then you can get how much it is going to cost.

MARNELL Is this just a guideline or is this actually the plan?

TAPE CHANGE TAPE 1 SIDE B

MARNELL So this specific plan would have only negligible money spent on it, because the money would be spent under plans yet to be developed for specific neighborhoods?

WADLE That is correct, or for the Neighborhood Associations could bring specific public work improvements to their City Council member and make it a point that this is a priority for their area.

DUNLAP I am sure there will be more questions and I am sure they will come back to us when we get those individual neighborhood plans. I think it is a very good thing that we revitalize this and at least we are talking about it.

SHERMAN I think there are people here today in support of this plan and I think we should give them the opportunity to speak.

DUNLAP We did not advertise this as a public hearing, and in order to do that we need to be specific how we do that. I am not certain whether or not we should accept input today in lieu of not having advertised this as a public hearing.

JOE LANG That is completely up to the Planning Commission today, the formal comments you will receive later. If you want to consider what is here today you can, but you don't need to.

MOTION: I recommend that we set the public hearing on August 11, 2005, have the formal public hearing at that time, and listen to the public then.

HENTZEN moved, **BARFIELD** seconded the motion, and it carried.

DUNALP That motion includes a clarification from the motion maker to proceed today without hearing from anyone who is here to speak today?

HENTZEN Correct. Yes, set the public hearing on August 11, 2005 and have the formal public hearing at that time.

BISHOP I believe that unless there is something really pressing on the agenda today, anybody from the public that is willing to attend this meeting should be able to speak on that agenda item.

SHERMAN I am in agreement with Commissioner Bishop that the public here today should be given the opportunity to speak today.

MARNELL I am not. If you are going to have a public hearing, then people should attend it in order to speak, rebut, or add additional testimony. I think you ought to have a public hearing, so that those that vote on the item get to hear all of the comments in their entirety.

MOTION CARRIES 10-2. (BISHOP, SHERMAN, opposed)

❖ **SUBDIVISION ITEMS**

4. Consideration of Subdivision Committee recommendations from the meeting of July 7, 2005.

4-1. SUB 2005-47: One-Step Final Plat -- WICHITA CONCRETE PIPE ADDITION, located west of Broadway and on the south side of 37th Street North.

NOTE: This is an unplatted site located within the City. A zone change request from SF-5, Single-Family Residential to LI, Limited Industrial has been requested.

STAFF COMMENTS:

- A. This plat will be subject to approval of the associated zone change and any related conditions of such a change. Prior to this plat being considered by MAPC, the zone change will need to be approved.
- B. Municipal water services are available. Fees in lieu of assessment regarding water connections are required. The applicant shall guarantee the extension of sanitary sewer lateral to serve the lot being platted.
- C. **City Engineering** needs to comment on the status of the applicant's drainage plan.
- D. **Traffic Engineering** needs to comment on the access controls. The plat proposes one access opening along 37th St. North. **The access controls are approved.**
- E. A segment of 36th Street, which is located adjacent to the west line of the plat, is not open and should be vacated. The Applicant shall contact the property owners to the west to attempt to have this half-street right-of-way vacated.
- F. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. A covenant shall be submitted regarding ownership and maintenance responsibilities.
- H. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- I. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- J. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- M. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.

- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.
- Q. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- R. The representatives from the utility companies should be prepared to comment on the need for any additional utility easements to be platted on this property.
- S. The applicant is reminded that a compact disc (CD) shall be submitted with the final plat tracing to the Planning Department detailing this plat in digital format in AutoCAD, or sent via e-mail to MAPD (cholloway@wichita.gov). This will be used by the City and County GIS Department.

MOTION: Approve subject to staff recommendations.

DUNLAP moved, **ALDRICH** seconded the motion, and it carried (12-0).

4-2. SUB 2005-25: Final Portion of Overall Preliminary Plat -- CASA BELLA ADDITION, located on the north side of Pawnee and west of 127th Street East.

NOTE: This is an unplatted site located within the City. This final plat consists of the southwest portion of the overall preliminary plat approved for the site and represents the first phase of development. The street layout is consistent with the preliminary plat.

STAFF COMMENTS:

- A. The applicant shall guarantee the extension of sanitary sewer and City water to serve the lots being platted. **An off-site easement for sewer extension is needed.**
- B. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- C. **City/County Engineering** needs to comment on the status of the applicant's drainage plan. **County Engineering has requested a drainage plan. City Engineering has requested a drainage guarantee and an off-site drainage easement.**
- D. **Traffic Engineering** needs to comment on the need for any improvements to perimeter streets. **A petition shall be provided to the City for left and right turn lanes at Tara Falls along Pawnee.**
- E. The Applicant shall guarantee the paving of the proposed streets. The guarantee shall also provide for sidewalks on at least one side of all through, non cul-de-sac streets.
- F. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed."
- G. Provisions shall be made for ownership and maintenance of the proposed reserves. The applicant shall either form a lot owners' association prior to recording the plat or shall submit a covenant stating when the association will be formed, when the reserves will be deeded to the association and who is to own and maintain the reserves prior to the association taking over those responsibilities.
- H. The lots within Blocks 3 and 4 shall be renumbered and included within one block.
- I. The lots within Blocks 5 and 6 shall be renumbered and included within one block.
- J. For those reserves being platted for drainage purposes, the required covenant, which provides for ownership and maintenance of the reserves shall grant, to the City, the authority to maintain the drainage reserves in the event the owner(s) fail to do so. The covenant shall provide for the cost of such maintenance to be charged back to the owner(s) by the governing body.
- K. The applicant shall submit a covenant, which provides for four (4) off-street parking spaces per dwelling unit on each lot, which abuts a 58-foot street. The covenant shall inventory the affected lots by lot and block number and shall state that the covenant runs with the land and is binding on future owners and assigns.

- L. **GIS** needs to comment on the plat's street names. **The street names are approved.**
- M. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- N. The plat's text shall include language that a drainage plan has been developed for the plat and that all drainage easements, rights-of-way, or reserves shall remain at established grades or as modified with the approval of the applicable City or County Engineer, and unobstructed to allow for the conveyance of stormwater.
- O. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- P. The applicant's engineer is advised that the Register of Deeds is requiring the name(s) of the notary public, who acknowledges the signatures on this plat, to be printed beneath the notary's signature.
- Q. To receive mail delivery without delay, and to avoid unnecessary expense, the applicant is advised of the necessity to meet with the U.S. Postal Service Growth Management Coordinator (Phone: 316-946-4556) prior to development of the plat so that the type of delivery, and the tentative mailbox locations can be determined.
- R. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Rt. 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- S. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one (1) acre or more of ground cover requires a Federal/State NPDES Storm Water Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita Metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- T. Perimeter closure computations shall be submitted with the final plat tracing.
- U. Recording of the plat within 30 days after approval by the City Council and/or County Commission.
- V. The representatives from the **utility companies** should be prepared to comment on the need for any additional utility easements to be platted on this property.
- W. A compact disc (CD), which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. If a disc is not provided, please send via e-mail to Cheryl Holloway (E-Mail address: cholloway@wichita.gov). Please include the name of the plat on the disc.

BISHOP On Item C, page 2, of the staff report says, County Engineering has requested a drainage plan, and City Engineering has requested a drainage guarantee and an offsite drainage easement. Have those been provided?

NEIL STRAHL The drainage plan has been approved by City Engineering, however the drainage plan has not been submitted to County Engineering to my knowledge at this point. We will not release the plat until that occurs.

BISHOP So if the City Engineers approve the drainage plan then one would assume that the guarantee is in place and the offsite drainage easement is in place?

STRAHL The guarantee typically is not submitted until we receive the final tracing prior to City Council. So we typically wouldn't have that at this point anyway.

BISHOP I guess what I was really referring to was an agreement.

MOTION: Approve subject to staff recommendations.

BISHOP moved, **DOWNING** seconded the motion, and it carried (12-0).

4-3. DED 2005-18: Dedication of a Utility Easement, for property located west of West Street and north of Maple.

APPLICANT: Lou Confessori, Mennonite Housing, 145 N. Topeka, Wichita, KS 67214

AGENT/SURVEYOR: Don Armstrong, Armstrong Land Survey, P.A., 1601 E. Harry, Wichita, KS 67214

LEGAL DESCRIPTION: A 3-foot Utility Easement described as follows:

The east 3 feet of the west 150 feet of Lot 10, Block 18, Parkwilde Addition, Sedgwick County, Kansas, except the south 60 feet and except the north 4 feet thereof.

PURPOSE OF DEDICATION: This dedication is associated with a lot split case (SUB 2005-60) and is for construction and maintenance of public utilities.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: Approve subject to staff recommendations.

DUNLAP moved, **ALDRICH** seconded the motion, and it carried (12-0).

4-4. DED 2005-19: Dedication of a Drainage and Utility Easement, for property located east of Rock Road and south of Pawnee.

APPLICANT: Dale Hecox, 3064 Blue Bird, Wichita, KS 67204

AGENT/SURVEYOR: Chris Bohm, Ruggles and Bohm, P.A., 924 N. Main Street, Wichita, KS 67203

LEGAL DESCRIPTION: A 30-foot Drainage and Utility Easement described as follows:

That part of Lot 1, Block 1, The Plaza at Cherry Creek Hills Addition, Wichita, Sedgwick County, Kansas, described as the west 30 feet of the north 442 feet of Lot 1, except the north 18.91 feet thereof.

PURPOSE OF DEDICATION: This dedication is associated with a lot split case (SUB 2005-21) and is for construction and maintenance of public utilities.

STAFF RECOMMENDATION: Accept the Dedication.

MOTION: Approve subject to staff recommendations.

DUNLAP moved, **ALDRICH** seconded the motion, and it carried (12-0).

4-5. SUB 2005-70: Lot Width to Depth Ratio for Lot Split (One Kellogg Place Second Addition).

The lot split encompasses the proposed division of Lot 3 into 2 lots – Parcels A and B. The maximum lot width to depth ratio of 3 to 1 for commercial lots is exceeded by both lots and a modification needs to be approved by MAPC.

Planning Staff is in favor of approval.

MOTION: Approve subject to staff recommendations.

DUNLAP moved, **ALDRICH** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARINGS – VACATION ITEMS**

5-1. VAC 2005-24: Request to Vacate the Use Restrictions of a Platted Reserve to Allow a Community Pool and its Associated Facilities.

OWNER/APPLICANT: Shadow Lakes Masters Association, c/o Nick Nicholas, President

AGENT: PEC, c/o Ryan Hennes

LEGAL DESCRIPTION: Vacate the plat text's restriction of uses in regards to uses allowed in Reserve E, Block 3, Forest Lakes West Addition, Wichita, Sedgwick County, Kansas

LOCATION: Generally located east of Tyler Road and north of 29th Street North, more specifically northeast of Pepper Ridge and Meadow Park Streets

REASON FOR REQUEST: To allow a neighborhood swimming pool

CURRENT ZONING: Subject property and all abutting and adjacent properties are zoned "SF-5" Single-family Residential.

The applicant is requesting consideration for the vacation of the restriction of uses in the plat's text for platted Reserve E, Forest Lakes West Addition. The uses that Reserve E has been set aside for include drainage purposes, landscaping, irrigation systems, entry monuments, pedestrian improvements and utilities confined to easements. The applicant requests the vacation to allow the additional uses of a neighborhood pool, parking and a pool house while retaining the existing allowed uses in Reserve E. There is an associated Conditional Use, CON2005-25, which will be considered by the MAPC at their July 14, 2005 meeting. There are no manholes or sewer and water lines in the reserve. There is a 150-foot KG & E/Westar easement in Reserve E. Comments from franchised utilities have not been received and are needed to determine if they have utilities, besides the noted KG & E easement, in the reserve. The Forest Lakes West Addition was recorded with the Register of Deeds October 16, 1997.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives, and other interested parties, Planning Staff recommends approval to the vacation of the restriction of uses of Reserve E as described in the legal description to allow additional uses with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time June 23, 2005 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described uses of the platted reserve and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the uses of the platted reserve described in the petition should be approved subject to the following conditions:
- (1) Vacate the use restrictions as listed in Reserve E to allow the additional uses of a swimming pool and related facilities, a parking lot, a club house and recreational uses. Retain the original uses allowed in Reserve E.
 - (2) Drainage and site plans must be provided to the Public Works Engineer for review and approval prior to the request going to the WCC for final action and prior to the issuance of building permits.
 - (3) The only use allowed in the platted 150-foot KG&E/Westar easement, located in Reserve E, is a parking lot and the required landscaping/screening.
 - (4) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - (5) All improvements shall be according to City Standards.
 - (6) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

1. Vacate the use restrictions as listed in Reserve E to allow the additional uses of a swimming pool and related facilities, a parking lot, a club house and recreational uses. Retain the original uses allowed in Reserve E.
2. Drainage and site plans must be provided to the Public Works Engineer for review and approval prior to the request going to the WCC for final action and prior to the issuance of building permits.
3. The only use allowed in the platted 150-foot KG&E/Westar easement, located in Reserve E, is a parking lot and the required landscaping/screening.
4. Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
5. All improvements shall be according to City Standards.
6. Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds

BILL LONGNECKER Planning staff presented report.

HILLMAN Since this is a neighborhood operation, I can pretty much assume that someone in the neighborhood or some association is going to be setting the hours. If there are evening hours won't there probably need to be lightening in the area? There are homes all around this area and I assume the pool will have lighting, which could be a nuisance to the neighbors. I don't see any crosswalks provided. Is the parking lot going to be closed in the off hours? Will it be open all the time, for say skateboarders?

LONGNECKER We do have the condition that there be an approved site plan for both the vacation case and the associated conditional use, CON2005-25, which is associated with the vacation case. We have talked to the applicant about the screening and the lightening. I'm not sure about the skateboarder question and I can't recall a crosswalk being a requirement in other neighborhood pool cases. I will allow the president of the neighborhood association, and the applicant to address the hours of operation.

DUNLAP Commission Hillman I didn't do what I probably should have done and I apologize. We should have considered the vacation request with the associated Conditional Use, so that all these questions can be answered. I would like to do that now, and continue this conversation at that time.

HILLMAN I'd like to look at them altogether

DUNLAP We will consider this item when the Conditional Use is heard.

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **DOWNING** seconded the motion, and it carried (12-0).

5-2. VAC 2005-25: Request to Vacate Public Right-of-Way (West Street).

<u>APPLICANT:</u>	Vulcan Chemicals c/o Steve Nikkel Mr & Mrs Ernest Sponsel
<u>AGENT:</u>	Arn, Mullins, Unruh, Kuhn & Wilson, LLP c/o Milo M Unruh Jr
<u>LEGAL DESCRIPTION:</u>	Generally described as that portion of West Street north of its intersection with 55 th Street South and south of the Wichita – Valley Center Flood Control (see attached legal)
<u>LOCATION:</u>	Generally located a mile east of Hoover Road, immediately west and south of the Wichita – Valley Center Flood Control easement and north of 55 th Street South. In Sedgwick County and within the City of Wichita's 3-mile jurisdiction
<u>REASON FOR REQUEST:</u>	To eliminate dumping and uncontrolled access
<u>CURRENT ZONING:</u>	Subject property is Public ROW. The southeast and southwest abutting properties are zoned "LC" Limited Commercial. The northeast and northwest abutting properties are zoned "SF-20"

The applicant proposes closing this unimproved portion of West Street, north of its intersection with 55th Street South, to control access onto the abutting properties and eliminate illegal dumping. This portion of West Street right-of-way (ROW) dead-ends on its north side against the Wichita-Valley Center Flood Control easement. There are no plans to extend West Street across the Wichita-Valley Center Flood Control easement. There are no manholes, sewer or water lines in the ROW. Comments from franchised utilities have not been received and are needed to determine if they have utilities in the easement. West Street at this location is an unimproved Waco Township road.

This site is located in an unincorporated portion of Sedgwick County and within the City of Wichita's 3-mile ring jurisdiction, which triggers the requirement of first the Wichita City Council recommending approval or denial of the vacation request before the request proceeds to the Sedgwick County Board of County Commissioners for final action.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from County & City Public Works, Storm Water, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the West Street ROW, as described with conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, by publication in the Derby Reporter of notice of this vacation proceeding one time June 23, 2005, which was at least 20 days prior to this public hearing.
 2. That private rights will not be injured or endangered by the vacation of the above-described portion of West Street, and the public will not suffer loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be approved.
- B. Therefore, the vacation of the portion of West Street described in the petition should be approved subject to the following conditions:
- (1) Retain this portion of West Street South, as described in the legal description, as a utility and ingress-egress easement for utilities, Sedgwick County and the Wichita-Valley Center Flood Control personnel.
 - (2) Apply to obtain from Sedgwick County closure of the entrance off of 55th Street South.
 - (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
 - (4) All improvements shall be according to County Standards.
 - (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions;

- (1) Retain this portion of West Street South, as described in the legal description, as a utility and ingress-egress easement for utilities, Sedgwick County and the Wichita-Valley Center Flood Control personnel.
- (2) Apply to obtain from Sedgwick County closure of the entrance off of 55th Street South.
- (3) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (4) All improvements shall be according to County Standards.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: Approve subject to staff recommendations.

DUNLAP moved, **WARNER** seconded the motion, and it carried (12-0).

5-3. VAC 2005-26: Request to Vacate a Platted Front Setback.

<u>APPLICANTS/OWNER:</u>	J & B Ventures Richard H Price & John R Carnahan (contract purchasers)
<u>LEGAL DESCRIPTION:</u>	The north 30-feet of the platted 50-foot front setback running parallel to the south lot line of the east portion of Lot 1, Block 1, the Kuhlman Addition, Wichita, Sedgwick County, Kansas
<u>LOCATION:</u>	Generally located northeast of the Central Avenue & Webb Road intersection, on the northwest corner of the Central Avenue & Mellor Street intersection
<u>REASON FOR REQUEST:</u>	Allow more area for development
<u>CURRENT ZONING:</u>	Site and all properties south, north and west are zoned "LI" Limited Industrial. Properties east and north of the site are zoned "SF-5" Single-family Residential.

The applicants are requesting consideration to vacate the north 30-feet of the platted 50-foot front yard setback, as generally described. The applicant 's proposed vacation would allow the construction of a warehouse on the remaining undeveloped southeast portion of Lot 1, Block 1, the Kuhlman Addition. The UZC provides a 20-foot front setback for the "LI" zoning district. There are no sewer lines, manholes or water lines in the platted setback. Comments from franchised utilities have not been received and are needed to determine if they have utilities in the easement. There are no platted easements in the platted setback. The property is an undeveloped remnant of that the greater portion of Lot 1, Block 1, the Kuhlman Addition that is a car wash; CON2000-36. The contract purchasers are not associated with the car wash owners, nor is their proposed warehouse use associated with the carwash. The Kuhlman Addition was recorded with the Register of Deeds May 5, 1999.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works, franchised utility representatives and other interested parties, Planning Staff recommends approval of the vacation of a portion of the platted 50-foot front yard setback, as described.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time June 23, 2005 which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted front yard setback and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted 50-foot front setback described in the petition should be approved with conditions:
- (1) Vacate the north 30-feet of the platted 50-foot front yard setback, on the southeast portion of Lot 1, Block 1, the Kuhlman Addition, as recorded with Wichita, Sedgwick County, Kansas. Provide Staff with a metes and bounds description of the vacated portion of the 50-foot setback, on a word documents via e-mail.
 - (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
 - (3) All improvements shall be according to City Standards.
 - (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all

required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

- (1) Vacate the north 30-feet of the platted 50-foot front yard setback, on the southeast portion of Lot 1, Block 1, the Kuhlman Addition, as recorded with Wichita, Sedgwick County, Kansas. Provide Staff with a metes and bounds description of the area of the vacated setback, on a word documents via e-mail.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicants.
- (3) All improvements shall be according to City Standards.
- (4) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: Approve subject to staff recommendations.

DUNLAP moved, **WARNER** seconded the motion, and it carried (12-0).

5-4. VAC 2005-27: Request to Vacate a Portion of a Platted Maintenance and Access Easement.

OWNER/APPLICANT: Lincoln Meadows LLC c/o Jack Q Hunt

AGENT: Bonanza Inc.

LEGAL DESCRIPTION: A tract of land located in the Northeast Quarter of Section 29, Township 27 South, Range 2 East of the 6th P. M., Sedgwick County, Kansas described as: Commencing at the Northeast corner of Lot 1, Block 1 Lincoln Meadows, an Addition to Wichita, Sedgwick County, Kansas; thence along the North line of said Lincoln Meadows Addition on an assumed bearing of S80°24'00"W for 357.00 feet to the point of beginning; thence continuing S80°24'00"W along the North line of said Lincoln Meadows Addition for 150.00 feet; thence South 09°36'00"E for 15.00 feet; thence N80°24'00"E parallel to the North line of said Lincoln Meadows Addition for 150.00 feet; thence N09°36'00"W for 15.00 feet to the point of beginning

LOCATION: Generally located west of Webb Road between Interstate Highway-35 and Lincoln Street

REASON FOR REQUEST: Proposed parking garage

CURRENT ZONING: Easement is located within property that is zoned "MF-29" Multi-family Residential

The applicant is requesting consideration for the vacation of a portion of a platted 15-foot access - maintenance easement. The applicant proposes to build a 10-stall parking garage over this portion of the easement. There are no manholes, sewer or water lines in the portion of the easement the applicant wants to vacate. Comments from franchised utilities have not been received and are needed to determine if they have utilities in the easement. It appears that this portion of the platted 15-foot access - maintenance easement is also part of a platted 15-foot rear setback. This portion of the easement/setback runs parallel to a platted drainage easement, which is part of the subject property's rear yard, the west interior side yard and a southwest portion of the front yard. The drainage easement is approximately 15-feet wide at this location, which would place the proposed parking garage approximately 15-feet from the rear property line. The UZC provides a 20-foot rear setback for the MF-29 zoning district. The rear yard of the subject property abuts IH-35. The Lincoln Meadows Addition was recorded with the Register of Deeds April 23, 1974.

Based upon information available prior to the public hearings and reserving the right to make recommendations based on subsequent comments from City Public Works/Water & Sewer/Storm Water, franchised utility representatives and other interested parties, Planning Staff recommends approval to vacate the portion of the platted access-maintenance easement/setback as described in the legal description with the following conditions.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
 1. That due and legal notice has been given by publication as required by law, by publication in the Wichita Eagle of notice of this vacation proceeding one time June 23, 2005, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by the vacation of the above-described portion of the platted access-maintenance easement/setback and the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.
- B. Therefore, the vacation of the portion of the platted access-maintenance easement described in the petition should be approved with conditions:

- (1) Vacate only that portion of the platted access-maintenance easement/platted 15-foot setback as approved by Public Works/Storm Water. No portion of the proposed 10-stall parking garage, from the foundation and footing to the roof, may encroach into the platted drainage easement that runs parallel to the platted access-maintenance easement/setback.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) Dedicate a replacement access – maintenance easements, as recommended and approved by Public Works. This must be provided to the Planning Staff prior to this case going to the WCC for final action.
- (4) All improvements shall be according to City Standards.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION:

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Vacate only that portion of the platted access-maintenance easement/platted 15-foot rear yard setback as approved by Public Works/Storm Water. No portion of the proposed 10-stall parking garage, from the foundation and footing to the roof, may encroach into the platted drainage easement that runs parallel to the platted access-maintenance easement/platted 15-foot rear yard setback.
- (2) Any relocation or reconstruction of utilities made necessary by this vacation shall be the responsibility of the applicant.
- (3) Dedicate a replacement access – maintenance easements, as recommended and approved by Public Works. This must be provided to the Planning Staff prior to this case going to the WCC for final action
- (4) All improvements shall be according to City Standards.
- (5) Per MAPC Policy Statement #7, all conditions to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation request are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: Approve subject to staff recommendations.

DUNLAP moved, **WARNER** seconded the motion, and it carried (12-0).

❖ **PUBLIC HEARINGS – ZONING ITEMS**

6. **Case No.: CON2005-23** – Donna Pearson McClish Request Conditional Use to permit oil drilling on property zoned "LI" Limited Industrial on property described as:

The East 330 feet of the South 660 feet of the Southwest Quarter of the Northeast Quarter of Section 34, Township 26 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, except the South 50 feet for road. Generally located on the north side of 33rd Street North, midway between Highway K-96 and Hillside.

Application deferred from MAPC June 23, 2005

BACKGROUND: The applicant is requesting to receive approval of a Conditional Use for oil and gas drilling on a five-acre site zoned "LI" Limited Industrial, located on the north side of 33rd Street North one-fourth mile west of Hillside; the site is within the city limits of Wichita. Currently a manufactured home residence and several outbuildings are located on the property. The proposed drilling site is in the extreme northwest corner of the five-acre tract. A pond and a septic field are located between the proposed drilling site and the manufactured home.

Wichita Municipal Code Chapter 25.04 Oil and Gas Wells requires any oil drilling and pumping within the city to follow regulations that include approval of a Conditional Use by MAPC. Also, the activity must take place within the geographic area of the Official Oil and Gas Well District Map (portion covering the subject tract is attached). In addition to approval of a Conditional Use and being within the geographic area of designated by the Official Oil and Gas Well District Map, the applicant must satisfy all other requirements of Chapter 25.04. This includes but is not limited to:

- (1) being granted a drilling permit from the Superintendent of Central Inspection; this permit requires a \$500.00 filing fee plus compliance with conditions that include evidence that all owners of record of mineral interests in the vicinity have had an opportunity to join in the oil production unit;
- (2) posting an approved surety bond for \$100,000.00;
- (3) providing a hold harmless agreement to the city against any claims arising from the well or drilling operations;
- (4) providing indemnity or casualty insurance naming the city as coinsured;

- (5) complying with all environmental requirements set forth in the Code to the satisfaction of the Dept. of Environmental Health.
- (6) Complying with all conditions of the Kansas Corporation Commission.

Chapter 25.04 also has requirements about proper fencing, storage of oil, storage (pits) and disposal of contaminated water, odor control, documentation on the results of the drilling (depth), and method of closing the well upon abandonment. The code also allows the closure of a well that becomes a nuisance to the surrounding area and gives the city jurisdiction to set oil production units 40 acres in size. The code directs drilling activity to be centered within the 40-acre drilling units, but allows some latitude to adjust the location due to geology, land use patterns or other site conditions. (Full text of Chapter 25.04 is attached.)

The city's requirements would be in addition to the jurisdiction of the Kansas Corporation Commission, which regulates oil and gas drilling in the state.

The site plan submitted for this request shows a marginally sized property for the proposed activity. KCC requirements stipulate that no producing well may be drilled within 330 feet of another mineral lease. The total property width is only 330 feet by 600 feet. If the adjoining property to the east holds a mineral leasehold, the proposed site is insufficient to comply with this basic requirement. However, the applicant wishes to proceed with the request and has indicated that a family member owns the adjoining property to the west and north. This offers the possibility that the applicant could seek to expand the application to include part of the adjoining property to the north and west in order to meet this KCC requirement.

All surrounding properties are zoned "LI" Limited Industrial. A recreational vehicle campground and a mini-storage warehouse business occupy the property to the east. The property to the south is the City's Public Works Northeast Maintenance Facility. The property on the north and west, owned by the family member, is a farmstead.

CASE HISTORY: The property is unplatted.

ADJACENT ZONING AND LAND USE:

NORTH: "LI"	Farm
SOUTH: "LI"	City maintenance facility
EAST: "LI"	RV campground, mini-storage warehouse
WEST: "LI"	Farm

PUBLIC SERVICES: Access is to 33rd Street North, a local street, to Hillside Avenue. The site has access to normal municipal services. The properties to the south and east are connected to water and sewer services.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide", 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the property as "employment/industry center". The Land Use Guide Map states, "This category encourages concentrations of employment in industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices."

DR81-17 established the Official Oil and Gas Well District Map (approved April 4, 1982 by MAPC and May 8, 1982 by the Board of City Commissioners). According to MAPC minutes, little drilling activity had taken place in Wichita since the 1950s until a request surfaced in the early 1980s and an ad hoc committee was formed evaluate proper procedures for drilling in the city. MAPC felt oil drilling was incompatible with residential and light commercial uses; industrial zoning seemed to be the main criterion for being designated for oil wells. Perhaps coincidentally, the area of K-96 and Hillside has had oil wells in the past. Four producing wells and three dry holes are shown north of K-96 and west of the Pearson tract on the map produced by KBP (Kansas Blueprint, well information dated January 8, 2001).

The Official Oil and Gas Well District Map has not been updated since 1982. The subject tract of this request was annexed to the city in 1999. Consequently, this area did not appear as part of the Official Map although the property to the east, south and west that already was part of Wichita was designated. Prior to final approval of a Conditional Use for this request, the Official Map will need to be reviewed to determine if it is appropriate to add the subject tract to the area designated to allow oil wells. Staff will request MAPC schedule the case for an upcoming MAPC meeting.

RECOMMENDATION: Preliminary review of this case seems to support, in concept, drilling of oil in this vicinity, but additional information is needed before a site plan can be finalized. The main information is presence of other leaseholds within the prohibited distance, definition of unit of production, and amendment to the Official Oil and Gas Well District Map.

Based upon information available prior to the public hearing, Staff recommends that the Conditional Use be APPROVED CONTINGENTLY with the following contingencies that must be satisfied prior to final approval and subject to the following conditions:

1. Final approval is CONTINGENT upon amendment to the Official Oil and Gas Well District Map. Contingent approval shall not be deemed to prejudice the decision of the MAPC for amending the Map. Upon completion of the amendment process, if it is determined that this area should not to be included, the Conditional Use shall be considered denied.
2. Final approval is CONTINGENT upon satisfactory demonstration that the Conditional Use area complies with minimum size/distance requirements with respect to other mineral leaseholds, and unit of production. If the site size is insufficient to comply with these factors, the applicant may amend the request for a Conditional Use to comply. Compliance with this requirement shall be demonstrated within one year of Contingent Approval or the Conditional Use shall be deemed null and void.
3. A revised site plan meeting the above criteria shall be submitted for review and approval by MAPC within one year of Contingent Approval. Review and approval by MAPC shall not require new official notice unless the boundaries of the Conditional Use are changed.

4. The site plan shall provide for a solid screening fence between six and eight feet in height and a buffer of one tree per 40 linear feet of common property line along the eastern boundary of the Conditional Use. Additional screening shall be per Chapter 25.04.
5. Commencement for establishing the Conditional Use shall begin within one year from Final Approval.
6. The applicant shall obtain all inspections, permits and licenses from the City of Wichita, including but not limited to Office of Central Inspection and Department of Environmental Health, and the Kansas Corporation Commission.
7. The Conditional Use shall be required to comply with all provisions of the City of Wichita Code Chapter 25.04 and all conditions of the Conditional Use. If the Zoning Administrator finds that there is a violation of any of the provisions or conditions, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code or remedies set forth in Chapter 25.04, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Currently a manufactured home residence and several outbuildings are located on the property. All surrounding properties are zoned "LI" Limited Industrial. A recreational vehicle campground and a mini-storage warehouse business occupy the property to the east. The property to the south is the City's Public Works Northeast Maintenance Facility. The property on the north and west, owned by the family member, is a farmstead.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned "LI" Limited Industrial and could be developed with other uses allowed in this district.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Potential detrimental effects include possible odor, noise from continuous pumping activity if a well is established as well as more significant noise during the drilling phase, and potential for environmental contamination. Currently, the small size of the subject tract raises issues about compliance with the KCC requirements with respect to drilling within the prohibited distance to another potential mineral lease, as well as moving the noise, odor and pollution closer to the adjoining neighbor to the east.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2030 Wichita Functional Land Use Guide", 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the property as "employment/industry center". The Land Use Guide Map states, "This category encourages concentrations of employment in industrial, manufacturing, service or non-institutional nature. The range of uses includes manufacturing and fabrication facilities, warehousing and shipping centers, call centers and corporate offices." DR81-17 established the Official Oil and Gas Well District Map (approved April 4, 1982 by MAPC and May 8, 1982 by the Board of City Commissioners). According to MAPC minutes, the most important factor in developing the map seemed to be heavy industrial zoning. This property is zoned "LI". The area of K-96 and Hillside has had oil wells in the past. Four producing wells and three dry holes are shown north of K-96 and west of the Pearson tract on the map produced by KBP (Kansas Blueprint, well information dated January 8, 2001). The Official Oil and Gas Well District Map has not been updated since 1982. The Conditional Use subject tract was annexed to the city in 1999. Consequently, this area did not appear as part of the Official Map but the property to the east, south and west was designated. Prior to final approval of a Conditional Use for this request, the Official Map will need to be reviewed to determine if it is appropriate to add the subject tract to the area designated to allow oil wells.
5. Impact of the proposed development on community facilities: Additional truck traffic will be present, particularly during drilling, but also over the lifetime of a well to remove the oil after pumping and storage.

DALE MILLER Planning staff presented the report for Donna Goltry.

DUNLAP Are we talking about the whole area outlined in pink?

MILLER Just this area right here (pointing to the map).

ALDRICH The applicant wants to go ahead and drill but in the event that the map down the road is not approved then this will be denied? Why doesn't the applicant just wait until whether or not they find out if the map is going to be approved or not?

MILLER They can't begin any operations without the appropriate permits, which would include amending the map.

ALDRICH Shouldn't that be done before this even comes up?

MILLER Probably what happened is in the process of researching this is when we discovered that the map existed, and the application was on file, and you have to have both the Conditional Use and the map. Since they already had filed the application we felt it was appropriate to go ahead with the application, and then we will trail the map amendment along after that.

ALDRICH Agreed. That is why I think the map should be done first prior to the Conditional Use.

MITCHELL Dale, is there any real reason for you to think that the map wouldn't be amended?

MILLER Not that I can think of. I don't really know why we would not get approval given the fact that if you look at that map you can see it is contiguous, and it will be just a little bump is all, and it is not like you are introducing a new use into an area that wouldn't have been allowed anyway.

ALDRICH The applicant doesn't have a problem with staff recommendation?

MILLER That is what she has indicated.

HILLMAN I was a little concerned about the bonding. I am not sure that the initial \$100,000 bond, which can be reduced to \$10,000, would be sufficient for cleanup.

MILLER This ordinance was done quite a few years ago, and those are numbers directly out of the ordinance.

HILLMAN Maybe it ought to be updated.

DUNLAP That is not the pervue of this Commission.

BISHOP On page 3, of the staff report, it says "Prior to final approval of the Conditional Use for this request the official map will need to be reviewed to determine if it is appropriate to add the subject tract to the area designated to allow oil wells." Staff will request MAPC schedule the case for an upcoming MAPC meeting", so does that we really almost have to approve this request twice?

MILLER You can approve this Conditional Use and deny the map amendment.

BISHOP The case it is referring to would be the map amendment?

MILLER Yes.

GOLTRY We should add that is a "DR" Development Review type of case, so they would have to initiate it, that is part of the problem.

MILLER That activity would be similar to amending the Zoning Code. That is why it is a different kind of a creature.

DUNLAP It is a unique situation. We don't have very many of those.

DONNA PEARSON MCCLISH, APPLICANT I am proposing to dig an oil well on 33rd Street North. I would like to clarify that when I submitted my Conditional Use permit I had already gone to the DRC in January 2004 so this item of revising the map has been addressed by the DRC. I submitted that in a letter with the Conditional Use permit, and it says that on January 23, 2004, that the DRC met to discuss that attached CU application, and as a result of that meeting I am requesting a change and an amendment to the current oil and gas map to include the area listed on the CU application. So that was submitted with the CU application.

I do have a license from the KCC. They have given approval. The production supervisors that I will be working with have a combined total employment in the gas and oil industry of about 70 years, and they are coming out of the Great Bend area. I have been researching this since September 2003, and have visited the Kansas Gas and Oil museums in El Dorado and Great Bend, and have been in contact with Lawrence Skelton at the Kansas Oil Library, and my research has been very intensive.

BARFIELD You are in agreement with all the conditions set forth in the staff report?

PEARSON MCCLISH Yes.

HILLMAN Have you been in contact with KDHE or any of the studies so that you have identified the studies of the groundwater flows, and the current contamination in the area so that you predetermine what isn't yours potentially?

PEARSON MCCLISH I have not been in contact with KDHE but as we progress the production supervisors and myself will look in all of those areas, because those are also outlined in Kansas Statue 25.04, so as we drill we have to keep in mind all of those regulations. When the intent to drill is filed all of those items will be reviewed prior to the intent to drill being approved.

HILLMAN If you fail on any of that it will increase your liability considerably.

HENTZEN Who has the responsibility to bringing the map up to par?

PEARSON MCCLISH I was in hopes that something could be done simultaneously, with my CU application because I had gone to the DRC in 2004. This was one of the stipulations that the oil and gas map be updated. So hopefully we can get something done soon.

HENTZEN I operate my business in that quarter section, therefore learning about this, I may want to be an applicant to improving the map.

DUNLAP We will assume that you are going to hit a whole bunch of oil, how are you going to get it off the site?

PEARSON MCCLISH It will be transported by truck. The process is that you will sign a contract and agreement with an oil company to buy the oil, so it is stored in tanks, and during the processes, technology has been updated so that we are not drilling with a cable. It is rotating drilling now that prevents the heat from the tip of the drill so that prevents the flash fires and things like that.

DUNLAP I'm sure your aware that there are oil pipelines in that area, and I was not sure if you are intending to connecting to them?

PEARSON MCCLISH Not at this time.

MILLER The map is handled the same as if it was a zone change. We have to advertise it and bring it back and present the map and the amendment and run it through the Planning Commission and onto the City Council and have them approve the map amendment much the same you would an amendment to the Zoning Code.

DUNLAP So the Planning Commission does have input?

JOE ALLEN LANG Law Department I drafted this in 1982. The amendment to the map will come back through here, and I believe this one is not in the district is because it has been subsequently annexed and it was not in the City at the time the map was drawn. So when this comes back to you, they can present a map amendment for just that tract or they can update the map and the whole area, and add everything in that area that has been annexed into the city. It is just however staff and you want to proceed with that.

DUNLAP Her request that she has already turned in, what happens to that? Does it go anywhere?

MILLER What she did was she came to the Development Review Committee meeting which is the informal meetings that we have on Friday afternoons. We did not advertise for a map amendment to run concurrently with this Conditional Use.

DUNLAP So the application that she made at DRC really has no affect?

MILLER It is just an informal meeting where we provide as much advice as we can, and then they can do whatever they need to do.

DUNLAP You will craft the method by which she will need to apply for a map change?

MILLER Yes.

SCHLEGEL Is it that she applies for the map change or does this Planning Commission initiate that by some action that they take today?

MILLER This would be something staff will initiate.

SCHLEGEL Does the Planning Commission need to make a motion and act on that?

LANG Actually if this would have been caught in time we could have included a map amendment along with this CU. But the map amendment goes through the same as a Unified Zoning Code change or Zone change, and will have to go through the public notice process, and to MAPC, and City Council.

DUNLAP Staff will need to amend the map.

MOTION: Approve the application based on staff recommendation and instruct staff to proceed with the map amendment.

ALDRICH moved, **SHERMAN** seconded the motion.

HILLMAN I have a question that ties to the map part. Quite often the contour lines of contamination and things like that, is this new map going to show these things? We are looking at an area that has had a history of industrial use and dumping, and I suspect there to be some contamination and to know what is in the area.

MILLER No, we will consult with Environmental Services but the intention of the map will be to show the surface geographical area where it is appropriate to drill. I don't know that Planning staff would have the expertise to come up those kinds of things. If there are maps that are available that can be used in conjunction with the geographical area we will use those. This will be a surface map that will say that these are areas that we think are appropriate for oil drilling to occur.

DUNLAP The question really is how do we know what is out there, and is anybody required to check before they get the permit to drill, and that is for the protection of the surrounding property and the applicant both.

MILLER What I would say that would be an appropriate discussion to have at the time that the map is being amended, and if those are concerns that you have then I think it is fair game for the applicant to understand that those kinds of questions will come up.

BARFIELD You continue to use the word here "contingency." It is my understanding that all conditions are approved under the contingency that all the conditions are followed. Why is it necessary in this one to deviate?

MILLER I think what Donna was trying to do was to emphasis that these things will have to be done prior to any permits being issued so even though the CU may be approved today by this body it still isn't fully operational and you can't go get a permit with it because these other things will be necessary.

HENTZEN I am going to abstain from the vote.

DUNLAP The circle doesn't touch your property.

HENTZEN That is just an assumption on your part. I am in that quarter section, and I will get my legal advice to tell me whether I have a right to be part of the application or recommendation. I will abstain today.

MOTION carried 11-0-1. (HENTZEN abstains)

7. **Case No.: PUD2005-02 #11 Amendment #1** – Sedgwick County Facility Project Services c/o Stephanie Knebel
Request Amendment to the Sedgwick County Juvenile Complex on property described as;

Lots 23 through 37, Block 8, Kellogg Terrace Addition, Wichita, Sedgwick County, Kansas Generally located South of Indianapolis and west of Kansas.

BACKGROUND: The applicant requests to amend PUD #11, Sedgwick County Juvenile Complex, to add 0.93 acres of platted property to the existing PUD for a parking lot. The proposed amended PUD labels the application area as “parking.” The request would re-zone the property from the existing “B” Multi-family zoning to “PUD”, as a part of PUD #11. The property is located south of Indianapolis and west of Kansas, across the street from the expanding Juvenile Complex.

The county owned site was previously developed with six buildings: two single family residences, a duplex, and three multi-family buildings. Those buildings have not been demolished, but the properties are currently used in support of construction on the Juvenile Complex. North of the site are “B” zoned multi-family buildings, east of the site is a pedestrian/bicycle path and the I-135 ramp. South of the site is the same pedestrian/bike path, and west of the site is the expanding Juvenile Complex.

CASE HISTORY: The subject property is platted as Lots 23 through 37, Block 8 Kellogg Terrace Addition.

ADJACENT ZONING AND LAND USE:

NORTH: “B”	Multi-family residences
EAST: Right of Way	Pedestrian/bike path, Interstate ramp
SOUTH: Right of Way	Pedestrian/bike path
WEST: “PUD”	Juvenile Complex

PUBLIC SERVICES: The subject property has access to South Kansas Court, a two-lane residential street with a 50-foot right of way.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for “Urban Residential” development. This residential category provides for urban residential development as well as schools, churches, parks, and similar residential-serving uses.

RECOMMENDATION: The proposed parking lot would be compatible with the Juvenile Complex west of the site but would introduce a large parking lot in a residential area, making parking lot landscaping and lighting a concern. The existing pedestrian/bike path and visibility in the immediate area for safety reasons is also a concern. Staff recommends the PUD amendment include specific landscaping provisions to create low parking lot landscape screening along Kansas Court and across from the residential on Indianapolis, and create a landscaped buffer allowing visibility and access to the pedestrian/bike path east and south of the site. Staff also recommends that the PUD amendment limits the height of parking lot lighting, the existing PUD already requires that lighting be shielded downward.

Based on the information available prior to the public hearing, MAPD staff recommends Amendment #1 PUD #11 Sedgwick County Juvenile Complex be APPROVED, subject to the following additional conditions:

1. General Provision #5 shall be amended to add the following: “A landscape plan for the east parking lot shall provide a five-foot landscape buffer on the south and east property lines with a shade tree every 40 feet and shrub every 10 feet. The north and west property lines shall have a landscaped street yard and landscaped parking lot screening in accordance with the City of Wichita Landscape Code. The parking lot interior shall be landscaped in accordance with the City of Wichita Landscape Code.
2. General Provision #9 shall be amended to add the following: “Parking lot lighting shall not exceed 14 feet in height.”
3. The applicant shall submit 4 revised copies of the PUD to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: “B” zoned Multi-family residences, the expanding Juvenile Complex, and a pedestrian/bike path surround the site. The proposed parking lot is in character with the supported complex across Kansas Court from the site. The request would introduce a large parking lot into a residential area. Visual aspects of the parking lot can be mitigated through compliance with the landscape code and limiting lighting height.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: A large parking could have negative affects on nearby residences. Landscaped parking lot screening should mitigate visual affects, and should screen car headlight at night. The existing PUD requires that lighting be shielded downward; limiting the height of parking lot lights to 14 feet should mitigate any negative affects of lighting on residences.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for “Urban Residential” development. This residential category provides for urban residential development as well as schools, churches, parks, and similar residential-serving uses. The proposed parking lot, in support of an institutional use, is similar in character to church or school parking lots. The PUD zoning district allows flexibility in setbacks, parking requirements, and site development requirements so long as it promotes quality urban design and environmentally sensitive development.
4. Impact of the proposed development on community facilities: The proposed parking lot should reduce on-street parking near the site. The proposed PUD amendment should have no other impact of community facilities.

JESS MCNEELY Planning staff presented the staff report.

1. Staff has spoken with the County representative and a City Parks representative on this request. The County representative indicated that the Juvenile complex desires the new parking lot to be fenced off on the east and south boundaries, adjacent to the pedestrian/bike path. The County representative for the Juvenile Complex also indicates that the parking lot will be lit, 24-hour video monitored, and have signs restricting the lot for customer use. The City Park representative does not yet know if the existing fence and landscaping (on city property at those boundaries) will remain or be removed.

2. In light of this information and future uncertainties, Staff modifies recommended condition number 1 as follows:

General Provision #5 shall be amended to add the following: "A landscape plan for the east parking lot shall meet the City of Wichita Landscape Ordinance requirements for a landscaped street yard, landscaped parking lot screening in all directions, and parking lot landscaping. This landscape plan may include existing screening and landscaping on City Park property abutting the east parking lot. If screening and/or landscaping is removed from the abutting City Park property, landscaping on the parking lot property must be installed to meet the Landscape Ordinance requirements."

TAPE CHANGE TAPE 2 SIDE A

In your staff report we have our three recommended conditions and Condition #1, I just talked about that recommended change. Condition #2 address the parking lot lighting, that we recommend be 14 feet in height and the applicant has an issue with this recommendation. We always recommend a height limit, and 14-15 feet is normal if you are in an area that abuts residential, and this application surrounds residential streets. We feel that a 14-foot height would keep the area residential in character.

JIM OSTERLUND, SEDGWICK COUNTY, DIO FACILITY PROJECT SERVICES We have purchased the land, there were six buildings on it and the plan is to demolish the buildings, and do a parking lot. The problem I have with the height of the park lot lighting, what has been passed to you today is three pages of photometric data, and it looks like something that has a lot of lines on there. Page 1 is the photometric data for the light plan, as we would like to propose it. It consists of four light poles; double headed, 400 watts, and gives us an average lighting level through the parking lot of 2-foot candles, which is a standard for parking. Page 2 is what the parking lot lighting would look like if we went to 15-foot light fixtures. I would have to have 26 light fixtures, and they would be 175 watt, and I would still get my 2-foot candles but you can see the parking lot would be loaded up with light fixtures, and would look like Rusty Eck Ford car lot as opposed to a standard parking lot. Each pole cost about \$1500 X 20 and would add about \$30,000 to the cost of the project. Page 3 of the photometric data kind of tells the story, and puts it all together. This is a point to point data to the bottom left hand side of your page is the curb line of the residential property across the street from the parking lot to the north, and is at the curb line of the residences. You will see data of .01, .11, .12, .13, as the lighting level that you are seeing on the curb across the street from the parking lot. That number might not mean much to anybody but it is actually half of what a full moon will provide. So you can see the lighting level we are sending to the residences to the north. The building is 24 feet tall on that elevation, and you see a city light pole up there probably 30 feet so that is not an outrageous height to have in an application like this. To have 24 lights is outrageous number for a parking lot. The parking lot will park about 120 cars.

MITCHELL The streetlight that is shown just above the A of midland, the light itself, how high above the street is that?

OSTERLUND I do not have that measurement but if you take it relative to the building behind it, which is our building we are currently under construction, the building is 24-feet, so to eyeball it, it is in excess of that.

MITCHELL We are talking the height of a light, not the pole.

OSTERLUND The mounting height of the fixture itself will be 30 feet above the finished level of the parking lot.

MITCHELL What you are proposing.

HILLMAN On page 3 on your handout you are talking about the private property, is there a fence between the planned parking lot area and the private property?

OSTERLUND No there is not. There is a landscape buffer there but we will comply with the landscape code and put in trees and shrubs.

HILLMAN How tall will that be?

OSTERLUND It will be trees and shrubs and we will exceed that requirement.

HILLMAN I think something like an 8-foot fence or something like that would block light into the property, and would make more sense and address the light in a different way.

ALDRICH What type of lighting are you proposing to put in there?

OSTERLUND Yes, they are 400 watt, square type fixtures that have a sharp cut off angle, so you will get the down light that you want, and then they are adjusted to throw the light to the parking lot as opposed to off the parking lot.

ALDRICH What type of light?

OSTERLUND It is a metal halide type fixture.

ALDRICH Those are standard mercury vapors?

OSTERLUND That is correct. This will not be a bright parking lot.

BISHOP My concern in limiting the height of the light is the glare because this is in a residential neighborhood. Are you saying via this demonstration you have handed out saying there will be no glare in the neighborhood?

OSTERLUND If you go directly below that you can see glare but what you are seeing at the ground level is an illumination level of less than a full moon. You will see a light there.

BISHOP I am saying like in somebody's bedroom window across the street.

OSTERLUND No greater than a full moon.

DUNLAP The good news is the bike path will have lighting.

WARNER It looks to me like with just 4 poles with lights makes more sense than 20 poles. You will see fewer light sources in the neighborhood if the information here is correct it seems to make more sense than allowing a whole bunch of them.

JOHNSON Has MAPD staff seen any of these diagrams handed out today?

MCNEELY No. The Zoning Code requires in PUD and CUP applications, that we address lighting heights, to try and minimize negative affects on surrounding neighborhood areas. The foot candle, at ground level, I know you can adjust, the negative effect of the taller lights is when people in the surrounding residential area when they look south out of a second story window they are going to see above the tree line some lights up higher.

JOHNSON But they would see 4 lights instead of 28 lights.

MILLER Our only point bringing up the 14-foot height is that is what we have been doing for a number of years and we are just trying to be consistent with what we have been asking commercial folks to do. If you think it is appropriate to do something different that is fine.

BARFIELD Does your decision take into consideration the height of the building?

MCNEELY No.

BARFIELD Basically what we are talking about is lighting around the residential area. Does the height of the building merit any consideration here in meriting an adjustment to what is your consistent recommendation.

MCNEELY We are just being consistent with all our other recommendations in asking for 14-foot lights when you are in a residential area or abut a residential area.

SCHLEGEL What residential areas are you concerned about when making that recommendation?

MCNEELY Immediately north, and a little west of the site that is proposed to be a parking lot.

SCHLEGEL If it would close out the debate to answer Commission Johnson's question, I think staff can very much live with what Jim Osterlund presented. That analysis demonstrates that the impact of the lights that they are proposing would be rather minimum on the surrounding area.

JOHNSON I think that is pretty good information that we are looking at. I don't want to make every applicant show what this is because it is sometimes to arrive at this.

ALDRICH What is the distance between the closest residence and where the parking lot is?

MCNEELY Approximately 30 feet.

MITCHELL The houses setback from the street so you are talking about 50 feet minimum.

MCNEELY Probably 60 feet.

MOTION: Approve Item with the changes staff made in the blue memo to the requirements and approve the four lighting plan presented today by Jim Osterlund the Sedgwick County representative with a height level shown on the drawing.

MARNELL moved, **WARNER** seconded the motion, and it carried (12-0).

8. **Case No.: CON2005-25 (Associated with VAC2005-24)** – Shadow Lakes Masters Association, c/o Nick Nicholas, President Request Conditional Use for a community pool and associated uses on property zoned "SF-5" Single-family Residential on property described as;

Lot 1, Block 3, Forest Lakes West an Addition to Wichita, Sedgwick County, Kansas. Generally located North of 29th Street North and east of Tyler Road, on the northeast corner of Pepper Ridge and Forest Park Streets.

BACKGROUND: The applicant requests a Conditional Use to permit a neighborhood swimming pool on Lot 1, Block 3, the Forest Lakes West Addition. The 0.26-acre subject property is located at the northwest corner of the Pepper Ridge Street - Forest Park Street intersection. The subject property is zoned "SF-5" Single-Family Residential and is currently undeveloped. A neighborhood swimming pool may be permitted on the subject property as a Conditional Use. This case is also associated with VAC2005-00024.

The character of the surrounding area is that of a developed and developing single-family residential neighborhood. All of the surrounding properties are zoned "SF-5" Single Family residential.

The attached site plan shows a 24-foot (x) 48-foot swimming pool, with 11 parking spaces (including one ADA designated space) located west of the swimming pool and a pump house with bathrooms on the east side of the pool area. The pump house with the bathrooms is not considered a clubhouse and does not trigger required additional parking. Per Art. IV, Section IV-A.4 of the UZC, the site does not meet the minimum required parking spaces for a neighborhood/private pool. Required parking for this neighborhood pool without a clubhouse 12 spaces. The applicant can apply for an administrative adjustment, which could reduce the required parking by up to 10%, if approved by the Planning Director. The site plan does not show screening, as required per Art. IV, Section IV-B. 3a of the UZC, which requires screening along the north and east sides of the site. Landscaping must be per the Landscape Ordinance.

CASE HISTORY: The subject property is part of the Forest Lakes West Addition, which was recorded October 16, 1997. VAC2005-00024 is associated with this Conditional Use. The vacation case is a request to relax the restriction of uses as listed in the plat's text for the western abutting platted Reserve E, Forest Lakes West Addition. This request was recommended for approval by the MAPC's Subdivision Committee at their June 7, 2005 meeting and will be considered by the MAPC at today's meeting.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5" Developing single-family residences
EAST: "SF-5" Single-family residences
SOUTH: "SF-5" Single-family residences, reserve with pond
WEST: "SF-5" Single-family residences

PUBLIC SERVICES: The subject property has access to Pepper Ridge Street and Forest Park Street, two-lane residential streets. Water, sewer, and other municipal services are available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Urban Residential" development. This residential category reflects the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly (assisted living, congregate care and nursing homes). Elementary and middle schools, churches, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The proposed neighborhood swimming pool is consistent with the Functional Land Use Guide.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. The site shall be developed in general conformance with an approved site plan, which shall conform to the Landscape Ordinance and screening shall be provided in accordance with Section IV-B.3.a. of the Unified Zoning Code. The landscape plan must be approved by the Planning Director prior to the issuance of a building permit.
2. Prior to the issuance of a building permit, the applicant shall apply for an administrative adjustment to reduce the minimum required parking.
3. Development and use of the subject property for a neighborhood swimming pool shall be in accordance with all applicable federal, state, and local rules and regulations, including building and construction codes, health codes, and operational standards. This includes approval by the Environmental Services Department for a neighborhood pool.
4. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is that of a developed and developing single-family residential neighborhood. All of the surrounding properties are zoned "SF-5" Single-family residential. A neighborhood swimming pool is accessory to and customarily associated with the zoning, uses, and character of an urban residential area.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: Locating a neighborhood swimming pool within a residential development will introduce more traffic and noise for the nearby residential properties. However, the recommended conditions of approval pertaining to screening and landscaping should address these problems. The proposed neighborhood swimming pool most likely will be an amenity to the neighborhood.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Urban Residential" development. This residential category provides single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly as well as elementary and middle schools, churches, churches, playgrounds, parks and other similar residential-serving uses. One of the objectives of the Comprehensive Plan is to "develop and maintain a system of parkland, open space and recreational facilities which provide a diverse set of recreational opportunities for existing and future residents." The proposed neighborhood swimming pool is consistent with the Functional Land Use Guide and the identified objective of the Comprehensive Plan.
4. Impact of the proposed development on community facilities: The proposed swimming pool will increase trips to the site, but the impact should be minimal and will not exceed the capacity of the street.

DUNLAP We will now consider the Conditional Use request for the neighborhood pool and the vacation case, VAC2005-24, associated with the conditional use.

BILL LONGNECKER Planning staff presented both staff reports.

MARNELL Do you have any idea of how many of these neighborhood pools are in Wichita?

LONGNECKER I don't have any idea, but there is one on Pepper Ridge Street, approximately a half-mile from this site.

MARNELL Aren't these all over town?

LONGNECKER Yes.

MARNELL What kinds of regulations are on these sites?

LONGNECKER I don't remember seeing any crosswalk requirements, as referred to earlier, for any of them, and as far as hours of operation, and other regulations we let the neighborhood associations set those.

RYAN HENNES I represent Shadow Lakes. I live four houses down from the site, and we would be happy to answer any questions you might have.

MARNELL Do you intend to implement some kind of rules and regulations for this pool?

HENNES Yes, we will have them posted.

HILLMAN Will there be lighting?

HENNES We will have one 14-foot tall light, and we will show that on the site plan. It will be located between the parking lot and pool.

HILLMAN How high is the fence around the pool?

HENNES The fence around the pool will be a six-foot wrought iron fence. We will landscape to meet the landscaping and screening requirements for the parking lot and the pool. There is a KG & E easement in the abutting reserve that limits how tall screening and landscaping in that easement. Our parking lot will be located in the reserve

MOTION: To approve subject to staff recommendation.

JOHNSON moved, **DOWNING** seconded the motion, and it carried (12-0).

9. **Case No.: CON2005-24** – Prairie Point Development, LLC, c/o Marv Schellenberg Request Conditional Use to permit a neighborhood swimming pool, parking and playground on property zoned "SF-5" Single-family Residential on property described;

A PORTION OF RESERVE B, PRAIRIE POINTE ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS
DESCRIBED AS:

COMMENCING AT THE SOUTHWEST CORNER OF RESERVE B, PRAIRIE POINTE ADDITION, AN ADDITION TO WICHITA, SEDGWICK COUNTY, KANSAS; THENCE BEARING N01 degrees 02'13"W, A DISTANCE OF 100.48 FEET; THENCE BEARING N34 degrees 03'39"W, A DISTANCE OF 47.71 FEET TO THE POINT OF BEGINNING; THENCE BEARING N46 degrees 18'53"E, A DISTANCE OF 161.31 FEET; THENCE BEARING N23 degrees 41'44"W; A DISTANCE OF 128.97 FEET TO THE SOUTHEAST CORNER OF LOT 1, BLOCK 3 OF SAID ADDITION; THENCE BEARING S66 degrees 18'16"W, ALONG THE SOUTH LINE OF SAID LOT 1, BLOCK 3; A DISTANCE OF 98.32 FEET TO THE SOUTHWEST CORNER OF SAID LOT 1, BLOCK 3, SAID POINT ALSO BEING A POINT ON A NON-TANGENT CURVE TO THE RIGHT, HAVING A RADIUS OF 282.00 FEET, A CHORD BEARING OF S12 degrees 21'59"E, A CHORD DISTANCE OF 110.80 FEET, THENCE ALONG SAID CURVE THROUGH A CENTRAL ANGLE OF 22 degrees 39'32", AN ARC DISTANCE OF 111.52 FEET TO THE P.T. OF SAID CURVE; THENCE BEARING S01 degrees 02'13"E, A DISTANCE OF 81.78 FEET TO THE POINT OF BEGINNING. Generally located North of 37th Street North and west of Maize Road.

BACKGROUND: The applicant requests a Conditional Use to permit a neighborhood swimming pool on a portion of Reserve B, Prairie Point Addition. The 0.40-acre subject property is located northeast of the 37th Street North and Manchester intersection. The subject property is zoned "SF-5" Single-Family Residential and is currently undeveloped. A neighborhood swimming pool may be permitted on the subject property as a Conditional Use.

The character of the surrounding area is that of a developing single-family residential neighborhood. All of the surrounding properties are zoned "SF-5" Single Family residential and are currently being developed with single-family residences.

The attached site plan shows a 20-foot (x) 40-foot swimming pool, a 14-foot (x) 14-foot tot pool, 12 parking spaces (including one ADA designated space) located south of the swimming pool, and a 20-foot (x) 10-foot pool house north of the pool area. As proposed, the parking area meets the Unified Zoning Code (UZC) required 1 space per 100-square feet of pool area plus the 1 space per 100-square feet of associated building area. The site plan does not show screening, as required per Art. IV, Section IV-B.

3a of the UZC. The site plan does show landscaping; planning staff recommends that the required screening be installed per a landscape plan to be approved by the Planning Director prior to the issuance of a building permit.

CASE HISTORY: The subject property is part of Reserve B, Prairie Point Addition, which was recorded June 3, 2004. The Platter's Text for Reserve B includes recreational uses.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5" Developing single-family residence
EAST: "SF-5" Subdivision Reserve, detention pond
SOUTH: "SF-5" Subdivision Reserve, detention pond
WEST: "SF-5" Subdivision Reserve, developing single-family residence

PUBLIC SERVICES: The subject property has access to Manchester Street, a two-lane residential street. Water, sewer, and other municipal services are available to the subject property.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Urban Residential" development. This residential category provides for the lowest density of urban residential land use and consists of residential, as well as schools, churches and similar uses found in such areas. One of the objectives of the Plan is to "develop and maintain a system of parkland, open space and recreational facilities which provide a diverse set of recreational opportunities for existing and future residents." The proposed neighborhood swimming pool is consistent with the Land Use Guide and the identified objective of the Comprehensive Plan.

RECOMMENDATION: Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the following conditions:

1. The site shall be developed in general conformance with the approved site plan, except that landscaping shall be in conformance with the landscape plan required by Condition #2.
2. The subject property shall be developed in accordance with the regulations of the Landscape Ordinance and screening shall be provided in accordance with Section IV-B.3.a. of the Unified Zoning Code per a landscape plan approved by the Planning Director prior to the issuance of a building permit.
3. Prior to the issuance of a building permit, a Zoning Adjustment to permit parking within the front setback shall be acquired.
4. Development and use of the subject property for a neighborhood swimming pool shall be in accordance with all applicable federal, state, and local rules and regulations, including building and construction codes, health codes, and operational standards.
5. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The character of the surrounding area is that of a developing single-family residential neighborhood. All of the surrounding properties are zoned "SF-5" Single Family residential and are currently being developed with single-family residences or subdivision reserve features. A neighborhood swimming pool is accessory to and customarily associated with the zoning, uses, and character of a low-density residential area.
2. Extent to which removal of the restrictions will detrimentally affect nearby property: Locating a neighborhood swimming pool within a residential development will introduce more traffic and noise for the nearby residential properties. However, the recommended conditions of approval pertaining to screening and landscaping should address these problems. The proposed neighborhood swimming pool will be an amenity to the neighborhood.
3. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The Functional Land Use Guide of the Comprehensive Plan identifies the subject property as appropriate for "Urban Residential" development. This residential category provides for the lowest density of urban residential land use and consists of residential development, as well as schools, churches and similar uses found in such areas. One of the objectives of the Plan is to "develop and maintain a system of parkland, open space and recreational facilities which provide a diverse set of recreational opportunities for existing and future residents." The proposed neighborhood swimming pool is consistent with the Land Use Guide and the identified objective of the Comprehensive Plan.
4. Impact of the proposed development on community facilities: The proposed swimming pool will increase trips to the site, but the impact should be minimal and will not exceed the capacity of the street. Many neighbors will have easy pedestrian access to the site because of its location.

MOTION: To approve subject to staff recommendation.

DOWNING moved, **HILLMAN** seconded the motion, and it carried (12-0).

10. **Case No.: CUP2005-30 DP287 (Associated with ZON2005-27)** – Ritchie Development Corp. (owner); MKEC Engineering Consultnats, Inc, c/o (agent) Request The creation of Country Hollow Commercial Community Unit Plan; and Zone change from "SF-20" Single-family Residential to "LC" Limited Commercial on property described as;

A tract of land lying within a portion of the Northwest Quarter of Section 26, Township 27 South, Range 2 East, of the Sixth Principal Meridian, Sedgwick County, Kansas; said tract being more particularly described as follows:

COMMENCING at the Northwest corner of said Northwest Quarter, thence along the West line of said Northwest Quarter on a Kansas South Zone Grid Bearing of S00 degrees 44'08"E, 107.84 feet, thence N89 degrees 15'49"E, 60.00 feet to the POINT OF BEGINNING being on the South line of Condemnation Case No. 91 C879, thence along the said South line, N88 degrees 59'29"E, 919.64 feet; thence along said South line, S21 degrees 54'59"E, 476.37 feet; thence S88 degrees 59'29"W, 216.74 feet; thence S00 degrees 44'11"E, 744.15 feet; thence S89 degrees 15'49"W, 875.00 feet to a point lying 60 feet East of the West line of said Northwest Quarter; thence N00 degrees 44'11"W, 1185.00 feet to the POINT OF BEGINNING. Generally located at the southeast corner of 127th Street and US54

BACKGROUND: The applicant is requesting to create a commercial Community Unit Plan containing approximately 25 acres with four parcels at the southeast corner of Kellogg (US 54) and 127th Street East. The applicant also is requesting to rezone 19.1 acres of property zoned "SF-20" Single-family Residential to "LC" Limited Commercial. Six acres are already zoned "LC". The property is unincorporated but the applicant has indicated intent to annex the tract into the City of Wichita prior to the case being heard by the governing body, and has requested we process the case as being within Wichita's jurisdiction.

Parcel 1 is the major parcel and is 19.37 acres in size. It has frontage primarily along 127th Street East. Requested building coverage for Parcel 1 is 253,137 square feet, which is larger than a super center site for a Wal-Mart or a Target that range from 200,000 to 230,000 square feet. Parcel 2 (1.61 acres) has frontage on 127th and a proposed frontage road along Kellogg. Parcel 3 (1.61 acres) and Parcel 4 (2.6 acres) would have no access along 127th Street East. Total requested gross floor area is 334,896 square feet.

The CUP would prohibit the following uses permitted by right in LC Limited Commercial district: cemetery; correctional placement residence; group home; recycling collection station; reverse processing center; utility, minor; kennel; night club; parking area, commercial; pawn shop; recreation and entertainment, outdoor; recreational vehicle campground; sexually oriented business in the county; tavern and drinking establishment; asphalt or concrete plat; manufacturing, limited; mining or quarrying; oil or gas drilling; rock crushing; solid waste incinerator; storage, outdoor. Conditional Uses would be permitted only upon approval of a separate CUP amendment requesting the specific Conditional Use.

Maximum building coverage would be 30 percent for all parcels and maximum gross floor area would be 35 percent. Maximum building height would be 35 feet for the main structure and for 50 feet for architectural elements.

Setbacks along the perimeter of the CUP would be 35 feet along 127th Street East, 100 feet on the northern property line (Kellogg/US 54 right-of-way) and 30 feet on the south and east. No reason is given for the requested reduction in setback from 35 feet (the standard CUP requirement) to 30 feet on the south and east. A possible justification would be to encourage pedestrian circulation between the CUP and the property to the east or south. Also, the customary masonry wall requirement for the south and east is to be located within a five-foot wall easement. Since the reduced setback is within the area generally used for "back-door" types of activities such as loading and storage docks, trash receptacles, and mechanical equipment, making them potentially closer to residential uses decreases the buffering effect of the setbacks somewhat.

Ground signage would consist of two ground signs called "development signs", defined as being limited to the name of the shopping center. The "development signs" could be up to 30 feet in height and 300 square feet in sign face area (one on Kellogg and one on 127th Street East). Ten other ground signs would be "building identification or tenant" signs up to 150 square feet in sign face area and 20 feet in height (two signs each for Parcels 2, 3 and 4, and four signs for Parcel 1). As requested, the "building identification or tenant signs" could be spaced only 75 feet from the "development" signs. The proposed CUP language would allow the equivalent of 14 ground signs by Wichita Sign Code definition (30-foot signs are considered occupying two ground sign locations), which would be one more than permitted by code. Code would limit the total number of ground signs to two identification and nine building or tenant signs.

Wichita Sign Code also limits the amount of sign face area to 0.8 square feet per lineal foot of frontage on arterial streets for property zoned "LC" and more intensive and 0.5 square feet for property zoned "NR" Neighborhood Retail, "GO" General Office or "NO" Neighborhood Office. Based on "LC", the maximum square footage of sign area should be limited to 1,680 square feet. The amount requested by the CUP is 2,100 square feet, which exceeds the amount per Wichita Sign Code by 31 percent.

Building wall signage would be limited to 20 percent of wall area, which is the Sign Code allowance, but restricts it to a maximum size of 150 square feet when only one sign is placed per elevation or three signs with a maximum of 70 square feet each. Billboards and portable signs would be prohibited, corresponding to Unified Zoning Code CUP requirements.

The architectural requirement calls for uniform architectural character, color and same predominant building materials and employing materials similar to surrounding residential area. Lighting would have consistent elements and be limited in overall height of light fixtures of 25 feet including poles, lamps and base. Standard landscaping and screening provisions are included.

No pedestrian or site circulation review is provided for by the CUP. CUPs generally require an internal circulation plan to ensure cross-lot circulation is achieved and a pedestrian plan to connect the buildings to arterial sidewalks, between buildings on site, and allowing interconnection with the nearby residential areas.

The site is currently in agricultural use. Kellogg (US 54) and K-96 onramps border the site on the north and northeast. A construction sales and service business, vacant property and a cell tower are located to the east on property zoned "GC" General Commercial. Woodland Lakes Estates, zoned "SF-5" Single-family Residential is located to the southwest. Country Hollow Subdivision is being platted to the south and southeast on property currently zoned "SF-20" Single-family Residential.

CASE HISTORY: The property is unplatted. A previous request for a community unit plan was filed in 2002, but withdrawn based on results of the traffic study that showed very limited commercial development potential without compromising the road system (Wiedemann Addition CUP, CUP2002-00009/ZON2002-00017).

ADJACENT ZONING AND LAND USE:

NORTH: "LC"; "SF-20"	Highway
SOUTH: "SF-20"	Vacant
EAST: "SF-20"	Vacant
WEST: "GC"; "SF-5"	Construction sales/service, cell tower, vacant, single-family residential

PUBLIC SERVICES: Accessibility is very limited for the requested CUP. 127th Street East is a two-lane minor arterial paved to county standards (open ditches/shoulders) that dead-ends at Kellogg today. In the future, it is planned to dead-end into a two-way frontage road separated from the limited access freeway. No frontage road is planned east of 127th Street South and if it were, it would dead-end at the K-96 ramp. Also, no left turns from 127th Street East to Kellogg are allowed now or will be allowed in the future. Currently, traffic leaving the site to go westbound must follow one of three circuitous and long routes: (1) travel eastbound one mile to 143rd Street East and do a U-turn (total distance to Kellogg/Greenwich = 3.2 miles), (2) travel south on 127th to Harry, west to Greenwich Road, and back north to Kellogg where left turns are accommodated by signalized intersection (total distance to Kellogg/Greenwich = 2.9 miles), or (3) travel ¼ mile south on 127th, follow a curving collector street (Lincoln Street) through the Woodland Estates neighborhood to Greenwich, and then north to Kellogg (total distance to Kellogg/Greenwich = 2.1 miles). The third option is the shortest but slowest and violates Comprehensive Plan Commercial Locational Guideline #5 by directing nonresidential traffic through a residential neighborhood. After grade separation of Kellogg, a two-way frontage road will be extended from Zelta on the south side of Kellogg to 127th Street East. This potentially improves westbound trips exiting the site, however, after grade separation traffic coming to the site from the east will have to travel past the site and exit at Greenwich, then travel back one mile along the frontage road.

A recent traffic study ("Traffic Impact Analysis, Wiedemann Property Kellogg and 127th St. East Wichita, Kansas," Traffic Engineering Consultants, January 27, 2003) identified the potential impact of development of this tract on level of service, given the transportation network constraints of the site. Results showed p.m. peak hour service for northbound right turns onto Kellogg to be most critical. Level of service (with background traffic included) deteriorated from C to F at different levels of build-out. The levels of build-out fell far below those requested by this CUP. The "Recommendation" section will analyze the potential impact of various types of uses.

Access requested is four ingress/egress points onto a proposed Kellogg access drive. However, no access road exists or is planned. The CUP designates one access point on 127th Street East, offset by 35 feet from the existing private drive to the construction business across 127th. The opening is about 30 feet shy of complying with access management separation distance from an arterial street intersection. Other openings would be per access management policy of 400 feet between full movement openings and 200 feet between right-in/right-out openings.

Other normal public services are available.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide", 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the six acres zoned "LC" for "regional commercial" and the remaining 19 acres as "urban development mix". The requested rezoning to "LC" zoning would not be in conformance to the recommendations of the *Comprehensive Plan*. "Urban development mix" encompasses urban residential uses with pockets of major institutional uses, local commercial uses, and park and open space uses.

Commercial Objective III.B encourages future commercial areas to "complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. **Commercial Locational Guideline #1** of the Comprehensive Plan states "Commercial sites should be encouraged to locate near arterial streets or major thoroughfares that **provide needed ingress and egress in order to avoid traffic congestion** (*emphasis added*). As discussed previously in the "Public Services" section, even though the property is located along an arterial, accessibility is constrained and a modest level of development well below the amount requested could be sustained without deteriorating the level of service for the transportation system below acceptable levels. Additionally, the potential path for a K-96/southeast corridor extension most likely travels through the middle or along the edges of this property.

Residential Objective II.A.1 seeks to use community unit plans and other tools to promote mixed use development, higher density residential environment and appropriate buffering. The proposed CUP allows residential use but general provisions to accomplish this objective are not addressed.

RECOMMENDATION: Strong consideration should be given to restricting commercial use to the area already zoned "LC" and using the remaining land for low traffic generation uses, including residential development, because of unique accessibility limitations of this site.

The Traffic Study (Traffic Engineering Consultants, 2003) found the critical movement to preventing deteriorated level of service is the northbound p.m. peak right turns onto Kellogg. The conclusion was that any proposed development that generated more than 85 to 90 vehicles exiting onto Kellogg in the p.m. peak hour would drop the level of service below "D", the acceptable level during peak periods. The study concluded that a single 50,000 new car dealership is about the maximum amount of development that could be sustained without deterioration below service level "D". Car dealerships generate less traffic than the many typical "LC" uses. Using the ITE (Institute of Transportation Engineers, 6th Edition: 1997) manual for p.m. peak volumes and entering/exiting traffic splits plus assuming 65 percent of traffic exiting to Kellogg and 35 percent to Harry, the following size of uses are estimated to reach the critical p.m. peak traffic volumes: bank with drive through - 29,000 square feet, fast food restaurant with drive through - 9,000 square feet, high turn-over sit down restaurant - 32,000 square feet, medical/dental office - 53,000 square feet, general office - 112,000, freestanding discount store - 70,000 square feet, discount super market - 27,000 square feet, and shopping center - 71,000 square feet. The existing "LC" zoning allows a gross floor area of 92,540 square feet, which would be sufficient to accommodate development for most uses.

Based on these factors, plus the information available prior to the public hearing, staff recommends the request for rezoning be DENIED and Country Hollow Commercial CUP be APPROVED for the 6.1 acres currently zoned "LC", subject to platting within one year and subject to the following conditions:

- A. DENY the zone change (ZON2005-00027), subject to platting of the entire property within one year;
- B. APPROVE the Community Unit Plan (DP-287), subject to the following conditions:
1. The CUP shall be revised to the boundaries of current "LC" zoning and the parcels be revised to facilitate this area OR the CUP be revised to provide for commercial use on the "LC" zoning and residential use on the "SF-20 (SF-5)" property.
 2. Development shall be limited to producing no more than 90 vehicle trips during the p.m. peak, based on estimates of vehicle trip generation from the ITE manual or a traffic study of specific uses reviewed and approved by the City Traffic Engineer.
 3. Complete access control shall be required for the northern 440 feet along 127th Street East.
 4. A circulation and pedestrian circulation plan for the entire CUP shall be submitted for review and approval by the City Traffic Engineer and the Planning Director prior to the issuance of the first building permit. This plan shall be used to ensure internal circulation between parcels and pedestrian connections to 127th Street East, internally between buildings and with surrounding residential properties.
 5. General Provision #3 shall be revised to be limited to listing uses allowed by right in the "LC" district. Group homes and utility, minor, shall not be listed as an excluded use. Add as excluded uses: nightclub and Adult Entertainment Establishments or Adult Hotels as set forth in Title 3.05 of the Code of the City of Wichita; Escort Services as set forth in Title 3.07 of the Code of the City of Wichita.
 6. Setbacks shall be 35 feet along the south and east CUP boundary.
 7. For the revised CUP area comprising the "LC" tract, General Provision #9D shall be revised to limit the total amount of sign face area to no more than 0.8 times the lineal frontage and with all signs to be spaced a minimum of 150 feet apart regardless of ownership or leasing. Allowable sign height shall be calculated per Wichita Sign Code, including allowance for exchanging one permissible ground sign location for increased height of five feet above the 25 feet height standard. The maximum height of 35 feet can be achieved only by eliminating two allowable ground sign locations.
 8. Limit signs on the property beyond the "LC" zoning to signage allowed by the Wichita Sign Code for the residential zoning district.
 9. Eliminate the distinction between "development" and "building identification and tenant," signs in General Provisions #3D and 3E, since both are defined by the Wichita Sign Code as ground signs.
 10. Eliminate General Provision #3F.
 11. Any major changes in this development plan shall be submitted to the Planning Commission and to the Governing Body for their consideration.
 12. The transfer of title of all or any portion of the land included within the Community Unit Plan does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land for commercial development and be binding upon the present owners, their successors and assigns, unless amended.
 13. All property included within this CUP and zone case shall be platted within one year after approval of this CUP by the Governing Body, or the case shall be considered denied and closed. The resolution establishing the zone change shall not be published until the plat has been recorded with the Register of Deeds.
 14. Prior to publishing the resolution establishing the zone change, the applicant(s) shall record a document with the Register of Deeds indicating that this tract (referenced as DP-287) includes special conditions for development on this property.
 15. The applicant shall submit 4 revised copies of the CUP incorporating all conditions approved by the Governing Body to the Metropolitan Area Planning Department within 60 days after approval of this case by the Governing Body, or the request shall be considered denied and closed.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site is currently in agricultural use. Kellogg (US 54) and K-96 onramps border the site on the north and northeast. A construction sales and service business, vacant property and a cell tower are located to the east on property zoned "GC" General Commercial. Woodland Lakes Estates, zoned "SF-5" Single-family Residential is located to the southwest. Country Hollow Subdivision is being platted to the south and southeast on property currently zoned "SF-20" Single-family Residential.
2. The suitability of the subject property for the uses to which it has been restricted: The area is suited to be developed as currently zoned. The 6.1-acre "LC" tract is ample to develop as much commercial use as can be sustained by the transportation network. Low or moderate density residential on the balance of the tract is suitable and can be achieved through conventional single-family subdivisions zoned "SF-5" or through a residential development with alternative housing types and lot configurations. The CUP allows mixing of housing types and lot configurations as long as the overall density achieved does not exceed the "SF-5" maximum density of 8.7 dwelling units per acre.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The request, as submitted, could have significant impacts on the highway network.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and Policies: The "2030 Wichita Functional Land Use Guide", 2005 amendments to the *Wichita-Sedgwick County Comprehensive Plan* identifies the six acres zoned "LC" for "regional commercial" and the remaining 19 acres as "urban development mix". The requested rezoning to "LC" zoning would not be in conformance to the recommendations of the *Comprehensive Plan*. "Urban development mix" encompasses urban residential uses with pockets of major institutional uses, local commercial uses, and park and open space uses. **Commercial Objective III.B** encourages future commercial areas to "complement existing commercial activities, provide convenient access to the public and minimize detrimental impacts to other adjacent land uses", with **Strategy III.B.1** seeking to channel new strip commercial uses to areas identified on the "Wichita Land Use Guide", and **Strategy III.B.2** seeking to integrate out parcels to planned centers through shared internal circulation, combined signage, similar landscaping and building materials, and combined ingress/egress locations. **Commercial Locational Guideline #1** of the *Comprehensive Plan* states "Commercial sites should be encouraged to locate near

arterial streets or major thoroughfares that **provide needed ingress and egress in order to avoid traffic congestion** (*emphasis added*). As discussed previously in the "Public Services" section, even though the property is located along an arterial, accessibility is constrained and a modest level of development well below the amount requested could be sustained without deteriorating the level of service for the transportation system below acceptable levels. Additionally, the potential path for a K-96/southeast corridor extension most likely travels through the middle or along the edges of this property. **Residential Objective II.A.1** seeks to use community unit plans and other tools to promote mixed use development, higher density residential environment and appropriate buffering. The proposed CUP allows residential use but general provisions to accomplish this objective are not addressed.

5. Impact of the proposed development on community facilities: Accessibility is very limited for the requested CUP. 127th Street East is a two-lane minor arterial paved to county standards (open ditches/shoulders) that dead-ends at Kellogg today. In the future, it is planned to dead-end into a two-way frontage road separated from the limited access freeway. No frontage road is planned east of 127th Street South and if it were, it would dead-end at the K-96 ramp. Also, no left turns from 127th Street East to Kellogg are allowed now or will be allowed in the future. Currently, traffic leaving the site to go westbound must follow one of three circuitous and long routes: (1) travel eastbound one mile to 143rd Street East and do a U-turn (total distance to Kellogg/Greenwich = 3.2 miles), (2) travel south on 127th to Harry, west to Greenwich Road, and back north to Kellogg where left turns are accommodated by signalized intersection (total distance to Kellogg/Greenwich = 2.9 miles), or (3) travel ¼ mile south on 127th, follow a curving collector street (Lincoln Street) through the Woodland Estates neighborhood to Greenwich, and then north to Kellogg (total distance to Kellogg/Greenwich = 2.1 miles). The third option is the shortest but slowest and violates Comprehensive Plan Commercial Locational Guideline #5 by directing nonresidential traffic through a residential neighborhood. After grade separation of Kellogg, a two-way frontage road will be extended from Zelta on the south side of Kellogg to 127th Street East. This potentially improves westbound trips exiting the site, however, after grade separation traffic coming to the site from the east will have to travel past the site and exit at Greenwich, then travel back one mile along the frontage road. A recent traffic study ("Traffic Impact Analysis, Wiedemann Property Kellogg and 127th St. East Wichita, Kansas," Traffic Engineering Consultants, January 27, 2003) identified the potential impact of development of this tract on level of service, given the transportation network constraints of the site. Results showed p.m. peak hour service for northbound right turns onto Kellogg to be most critical. Level of service (with background traffic included) deteriorated from C to F at different levels of build-out. The levels of build-out fell far below those requested by this CUP.

DONNA GOLTRY The applicant wants a deferral of this application, so that the applicant can come back and talk about traffic study issues that they have not addressed yet and they have not brought in information on the differences in traffic at this point.

MOTION: Indefinite deferral.

DUNLAP moved, **MITCHELL** seconded the motion, and it carried (12-0).

11. **Case No.: ZON2005-28** – Boeing Wichita Credit Union, c/o Stanley Cowan; Baughman Company, PA, c/o Terry Smythe and Wilson Darnell Mann, c/o Matt Schindler (agent) Request Zone change from "GO" General Office to "LC" Limited Commercial and an Amendment to Protective Overlay #11 on property described as;

Lot 2, Riverside Health System Addition, Wichita, Sedgwick County, Kansas. Generally located North of Maple and west of 135th Street West.

BACKGROUND: The applicant is requesting a zone change to "LC" Limited Commercial and an amendment to Protective Overlay (P-O) #11 on platted property currently zoned "GO" General Office. The subject property is located on the north side of Maple approximately 300 feet west of the intersection of 135th Street West and Maple. The objective of the zone change and P-O amendment is to allow for a 130 square-foot sign for a banking facility. A previous Conditional Use on this property (CON2003-16) permitted the bank facility in GO zoning, and a previous amendment to P-O #11 (ZON2003-26) allowed for bank and office uses. Under existing GO zoning, this site is limited to 32 square feet of signage per tenant; the applicant desires a 130 square-foot sign. LC zoning on this site without a PO would permit signage of up to 160 square feet.

The applicant is not requesting changes to other provisions of the protective overlay. Existing provisions of P-O #11 require monument signs limited to 20 feet in height, limit light poles to 14 feet in height and restrict the amount of building lighting, require additional landscaping, requires building materials with architectural compatibility and use of materials similar to surrounding residential uses, and limits building height to 35 feet and two stories with the second story limited to 25 percent of the total building floor area. P-O #11 also limits the use of the property to: office, general; medical service; and bank or financial institution with a drive-through window.

The property to the east is developed with a brick medical office building. West of the site is a single-family residential subdivision. The property to the south is zoned "LC" Limited Commercial (DP-225 Auburn Hills Commercial C.U.P.) and developed with neighborhood commercial uses, including a drive-through bank. The northeast and southeast corners of the intersection of 135th Street West and Maple are zoned "LC" with a grocery store, other retail, and vacant commercial land. The surrounding area beyond the commercial uses at the intersection are zoned "SF-5" Single-family residential and being developed with single-family uses except for the Auburn Hills Golf Course to the south.

CASE HISTORY: The property is platted as the Riverside Health System Addition, recorded in 1997. A zone change to GO creating P-O #11 (SCZ-0730) was approved in 1996. A Conditional Use (CON2003-16) approved a bank with drive through in 2003; associated was an amendment to P-O #11 allowing bank use with drive through, general office use, and limiting monument signs to 20 feet in height.

ADJACENT ZONING AND LAND USE:

NORTH: "SF-5"

Vacant, agriculture

SOUTH: "LC"; "SF-5"
EAST: "GO"; "LC"
WEST: "SF-5"

Neighborhood commercial, golf course, single-family
Medical Office, retail
Single-family

PUBLIC SERVICES: The site has frontage along Maple. Maple is a four lane arterial with a center turn lane and decel lanes at the intersection of Maple and 135th Street West. The Maple half-width right of way is 60 feet at the application area. Traffic counts in 2003 were 2,554 vehicles (ADT). No improvements are scheduled on the city or county capital improvements program for Maple.

Other normal municipal services are available.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the *Wichita/Sedgwick County Comprehensive Plan*, identifies this location as appropriate for "Local Commercial" development.

RECOMMENDATION: This application conforms to the Functional Land Use Guide of the *Comprehensive Plan*. The proposed zone change would increase commercially zoned acreage at the intersection by 3.4 acres, but the uses on this site would remain restricted under the existing P-O to uses which had been permitted under GO zoning. The existing Conditional Use limits the site to two full access openings spaced 228 feet apart. The proposed P-O amendment limits signs to monument type, 20 feet in height, and 130 square feet.

Based upon these factors and the information available prior to the public hearings, planning staff recommends that the zone change request be APPROVED, subject to amended Protective Overlay #11 to read as follows:

- A. All freestanding signs must be monument type. Freestanding monument signs shall be limited to no more than 20 feet in height and 130 square feet.
- B. Light Poles must be limited to a maximum height of 14 feet.
- C. Extensive use of backlit canopies and neon or fluorescent tube lighting on buildings is not permitted.
- D. Landscaping shall comply with the Landscape Ordinance of the City, except that requirements for street yard landscaping and buffer strip trees must be calculated at 1.5 times the minimum ordinance requirements.
- E. All buildings on the site must share similar architectural character, color, texture, and the same predominate exterior building material. Building walls and roofs must have predominantly earth-tone colors, with vivid colors limited to incidental accent, and must employ materials similar to surrounding residential areas.
- F. The administrative adjustment provisions of the Wichita-Sedgwick County Unified Zoning Code, Section V-E.14 shall apply to the protective overlay.
- G. The use of this property shall be limited to office uses, medical office uses, and a bank with drive-through window.
- H. All buildings shall be limited to 35 feet in height, and 2 stories in height with the second story limited to 25% of the total building floor area.
- I. The west 48 feet of Lot 1, Riverside Health System Addition, shall be added to P-O #11 and removed from P-O #1.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The property to the east is developed with a brick medical office building. West of the site is a single-family residential subdivision. The property to the south is zoned "LC" Limited Commercial (DP-225 Auburn Hills Commercial C.U.P.) and developed with neighborhood commercial uses, including a drive-through bank. The northeast and southeast corners of the intersection of 135th Street West and Maple are zoned "LC" with a grocery store, other retail, and vacant commercial land.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned "GO", and could be developed with office, medical service, or bank with drive in as currently permitted under the existing P-O and Conditional Use. The existing GO zoning would limit the site to a 32 square foot sign per tenant.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: This request in effect will only increase allowable signage on the property to 130 square feet. This request will not allow any land uses not currently permitted on the site. The requested 130 square foot sign would be over 250 feet from residential to the west, and should not have a detrimental affect. All other provisions of the existing P-O should mitigate any negative affects on surrounding residential property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The Functional Land Use Guide of the *Comprehensive Plan* identifies this area as suitable for "Local Commercial" development.
5. Impact of the proposed development on community facilities: The impact of allowing a 130 square foot sign at this location should be minimal.

MOTION: Approve subject to staff recommendations.

WARNER moved, **DOWNING** seconded the motion, and it carried (12-0).

The Metropolitan Area Planning Department informally adjourned at 3:30 p.m.

July 14, 2005

Page 30

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2005.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)